S. HRG. 100-926

AMERICANS WITH DISABILITIES ACT OF 1988

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

OF THE

COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

AND THE

SUBCOMMITTEE ON SELECT EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

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TO ESTABLISH A CLEAR AND COMPREHENSIVE PROHIBITION OF DISCRIMINATION ON THE BASIS OF HANDICAP

SEPTEMBER 27, 1988

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AMERICANS WITH DISABILITIES ACT OF 1988

TUESDAY, SEPTEMBER 27, 1988

U.S. SENATE, SUBCOMMITTEE ON THE HANDICAPPED, OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES, U.S. HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON SELECT EDUCATION, OF THE COMMITTEE ON EDUCATION AND LABOR,

Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room SH-216, Hart Senate Office Building, Senator Tom Harkin (chairman of the subcommittee) presiding.

Present: Senators Harkin, Kennedy, and Weicker, Representatives Owens, Coelho, Martinez, and Jeffords.

OPENING STATEMENT OF SENATOR WEICKER

Senator WEICKER [presiding]. The joint committee hearing of the U.S. Senate and the U.S. House of Representatives on the Americans With Disabilities Act will come to order.

It is a great pleasure to welcome my colleagues from the House, to welcome all those in attendance, whether as observers or as witnesses. This is a historic occasion.

I have a prepared statement, which will be submitted in its entirety for the record. I would just like to make the following comments.

I, like you, have lived through weeks, indeed months, of those earth shattering, heartstopping issues such as patriotism and Pledges of Allegiance and all those things which are of deep concern to America. Somehow, I have heard absolutely nothing about 36 million Americans with disabilities.

I think it is to the credit of both candidates, both the Governor and the Vice President, that they support the legislation that is the subject matter of this hearing. Yet, I think the time has come for the Nation, never mind the candidates, to insist that we start to discuss the realities of the world around us. Those realities include 36 million of our neighbors who have particular problems with discrimination.

As is well known I have spoken in the past, not only as a U.S. Senator, but as the father of a disabled child. Within the last several weeks, I find I have another disabled child, this time a learning disabled child. As we grow older, the discrimination that takes place against the ailments of infirmity become more obvious and more frequent.

As new situations confront us, such as AIDS, discrimination once again raises its head, a discrimination which so many of you in this

room know all too well, insofar as your particular disabilities are concerned.

Now, the agenda of the Nation is going to be set in the next several weeks, not after the election is over. If both parties and their candidates can tiptoe off the stage without mentioning the Americans With Disabilities Act and its passage immediately, in the next Congress, if they can do that then there will be no Americans with Disabilities Act enacted by the next Congress. If there is silence now, there will be silence later. If there is indifference to discrimination now, there will be indifference later.

This is the moment in the time of all Americans when they set the priorities and the goals of this Nation. Foremost among them should be the fact that for 36 million, and growing in number, Americans, the time has come to end all discrimination, in whatever form. If we do that, that is a patriotism of which we can all be proud.

[The prepared statement of Senator Weicker follows:]

Opening Statement
Senator Lowell Weicker, Jr.
September 27, 1988

I am very pleased to join my colleagues this morning in convening a joint hearing on a subject of deep concern to me: discrimination on the basis of disability.

In its 1986 report, Toward Independence, the National Council on the Handicapped noted: "People with disabilities have been saying for years that their major obstacles are not inherent in their disabilities, but arise from barriers that have been imposed externally and unnecessarily." That report went on to recommend that "Congress... enact a comprehensive law requiring equal opportunity for individuals with disabilities, with broad coverage and setting clear, consistent, and enforceable standards prohibiting discrimination on the basis of handicap."

Earlier this year, in direct response to the Council's recommendation, Senator Harkin and I introduced S.2345, the Americans with Disabilities Act. Drafted principally by the Council, this legislation would prohibit discrimination against people with disabilities in employment, public accommodations, transportation, communciation and public services. And it goes a step further in describing specific methods by which such discrimination is to be eliminated.

The bill has strong, bipartisan backing in both houses of Congress, including 25 cosponsors in the Senate and 114 in the House. It has been endorsed by more than 50 national organizations representing people with a wide variety of disabilities. It is also supported by the Leadership Conference on Civil Rights, an umbrella group of 185 organizations active in the area of civil rights.

As a prelude to further Congressional action on S.2345, we look forward this morning to hearing expert testimony on the types of discrimination experienced by people with disabilities. Most of our witnesses came by their expertise the hard way. They know first-hand what it is like to be shunned in the mainstream and shunted off into the margins of American life. They know first-hand that a disease like AIDS or a condition such as cerebral palsy can not only rob individuals of their health but also be used to deny them a table in a restaurant, a job, a home, and -- finally -- any shred of human dignity.

This hearing is also about fighting back and the rewards reaped as a consequence. We will learn of the difference early intervention has made in the life of a mentally retarded youth. We will revisit the triumph experienced by the students at Gallaudet when they succeeded in their battle for a deaf university president.

Their stories offer us a glimpse of a nation changing for the better. But the transformation has been much too long in coming and is proceeding at too slow a pace. It took the Civil Rights Act of 1964 and subsequent statutues to make plain this nation's opposition to racism, sexism and discrimination based on a person's age. It will take the Americans with Disabilities Act to set the record straight as to where we stand on discrimination based on disability.

Senator WEICKER. I understand that Senator Harkin, who is the chairman of the subcommittee and cosponsor of the legislation, is here.

But first, however, we will let Congressman Owens proceed, and then we will get to Senator Harkin.

STATEMENT OF HON. MAJOR R. OWENS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. OWENS. Thank you, Senator.

On behalf of the Subcommittee on Select Education of the Education and Labor Committee, I want to thank Senator Harkin and his colleagues for hosting this very important hearing. I have a brief opening statement.

For some of us, the Americans With Disabilities Act of 1988 represents the next giant step in the American civil rights movement. This legislation grants full rights to Americans with disabilities and moves our great Nation from a respectable position of official compassion for those with impairments to a more laudable position of empowering disabled Americans.

This legislation grows out of a vast movement for disability rights and empowerment, a movement made highly visible this spring when the students and faculty of Gallaudet University successfully campaigned for the installation of the first ever deaf president, and more deaf board of directors members of the university. One of the campaign student leaders is a witness in this morning's hearing, and he will testify as a participant on the third panel.

During the Gallaudet campaign, a faculty member characterized that historic effort as "our Selma." As of 1965 the Voting Rights Act was the legislative outgrowth of the 1965 civil rights march from Selma to Montgomery, AL, the Americans with Disabilities Act is part of a journey toward full empowerment for Americans with disabilities.

The measure prohibits discrimination on the basis of disability in such areas as employment, housing, public accommodations, travel, communications, and activities of state and local governments. To guide the journey toward full empowerment of disabled Americans, I have, in my capacity as chairman of the House Subcommittee on Select Education, created a task force on the rights and empowerment of Americans with disabilities.

I have appointed Justin Dart, a former Rehabilitation Services Administration Commissioner, to chair the task force. Mr. Dart is one of the most committed advocates for disabled Americans in this country, and he has made several unique contributions to the field of disability rights.

The task force and the selection of its membership was designed to be broadly representative of people with various disabilities. It has convened forums of public meetings of disabled consumers, rehabilitation professionals, parents, advocates, and Government officials in 44 States. Since May 23 of this year, over 500 people have been present at the forums and 10,000 people have attended the public meetings. Many of them have presented publicly aspects of the discrimination that they have faced on the basis of disability.

The task force is preparing an interim report documenting evidence of discrimination on the basis of disability in America, which will be ready by late October. An executive summary of the interim report is currently available for distribution. The final report of the task force is scheduled for release next year.

The task force is also recommending options for short and long term actions related to Congress, the executive branch, and the public. The information collected by the task force will be invaluable to my subcommittee and to Congress as a whole, as we consider the Americans with Disabilities Act and subsequent legislation to implement the integration of disabled Americans into the production mainstream of our society.

In the America of 1988, people with disabilities understand that democracy and self-help are synonymous. Americans with disabilities are mobilizing to help themselves. Power is their greatest need. With empowerment, all problems can be resolved, all public officials and programs can be held accountable.

Passage of the Americans with Disabilities Act of 1988 will greatly help in the empowerment of disabled Americans. With the power and authority of their Government fully behind them, combined with their own energies, Americans of disabilities can become the masters of their own fates.

[The prepared statement of Congressman Owens follows:]

(2)

Congressman

MAJOR OWENS

NEWS RELEASE

FOR IMMEDIATE RELEASE

Contact: Margaret Summers
(202) 225-6231

OWENS SAYS DISABILITY RIGHTS ACT WILL HELP "EMPOWER" DISABLED AMERICANS

"The Americans with Disabilities Act of 1988 represents the next giant step in the American civil rights movement," says Congressman Major Owens (D-NY), Chairman of the House Subcommittee on Select Education. The Subcommittee, along with the Senate Subcommittee on the Handicapped, will hold a hearing on the legislation Tuesday, September 27, 10 a.m., Room 216 in the Hart Senate Office Building. Among the scheduled witnesses are Gregory Hlibok, a student leader of Gallaudet University demonstrations for a deaf president and deaf board members earlier this year, and Jade Calgory, a star of the film "Mac and Me" and the first disabled child to be featured in a commercial movie.

The disability rights measure prohibits discrimination on the basis of disability in such areas as employment, housing, public accommodations, travel, communications, and activities of state and local governments. It covers employers engaged in commerce who have 15 or more employees; housing providers covered by federal fair housing laws; transportation companies; those engaged in broadcasting or communications; and state and local governments. Congressman Owens notes that the Act will not repeal Sections 503 and 504 of the Rehabilitation Act of 1973 and all regulations issued under those sections will remain in full force and affect. Enforcement procedure for the Act includes administrative remedies, a private right of action in federal court, monetary damages, injunctive relief, attorney's fees, and cutoffs of federal funds.

The measure is being sponsored in the House by Congressmembers Owens, Tony Coelho (D-Calif.), and Silvio Conte (R-Mass.). Its Senate sponsors are Tom Harkin (D-Iowa) and Lowell Weicker (R-Conn.).

(MORE)

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In addition to the measure, Congressman Owens, in his capacity as the House Select Education Subcommittee Chairman, has created a Task Force on the Rights and Empowerment of Americans with Disabilities "to guide the journey toward full empowerment of disabled Americans." He appointed Justin Dart, a former Rehabilitation Services Administration Commissioner, to chair the Task Force. "Mr. Dart is one of the most committed advocates for disabled Americans in this country," says Congressman Owens, "and he has made several unique contributions to the field of disability rights."

The Task Force is gathering evidence of discrimination against disabled Americans, and is seeking examples of successful local, state, national and international efforts to overcome barriers to self-realization of disabled people. It is also recommending options for short and long-term actions relating to Congress, the Executive Branch, and the public. "The information collected by the Task Force will be invaluable to my Subcommittee and to Congress as a whole, as we consider this and subsequent legislation to implement the integration of disabled Americans into the productive mainstream of society," says Congressman Owens.

# # #

OPENING STATEMENT OF SENATOR HARKIN

Senator HARKIN [presiding]. Thank you very much, Congressman Owens.

Again, I want to welcome all of you here. I want to also welcome my colleagues here. I would say without hesitation that you see in front of you really the vanguard in the Congress of those who care about and fight for Americans with disabilities. Senator Kennedy, Congressman Coelho, Congressman Owens, Senator Weicker, and Congressman Jeffords. I am really proud that you are all here.

We are holding this joint hearing on the pervasive problem of discrimination in our Nation against Americans with disabilities. This hearing will go down, I believe, in history as another significant step in Congress' effort to ensure equal opportunity for our 42 million Americans with disabilities.

People with disabilities, like racial and ethnic minorities and women, are entitled to obtain a job, enter a restaurant or hotel, ride a bus, listen to and watch the TV, use the telephone, and use public services free from invidious discrimination and free from polices that exclude them solely on the basis of their disability. Every American must be guaranteed genuine opportunities to live their lives to the maximum of their potential.

Almost a quarter of a century ago, Congress took the historic step of passing the Civil Rights Act of 1964 which, among other things, bars discrimination against persons on the basis of race, color, and national origin by recipients of Federal aid, and in such areas as employment and public accommodations. Americans with disabilities were not protected by this landmark legislation.

In 1968, the Congress and the President took another historic step when it passed the fair housing legislation barring discrimination in housing. Once again, people with disabilities were not extended protections by this legislation.

In 1973, some 15 years ago, the Congress finally adopted section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of handicaps. However, this legislation only prohibits discrimination by recipients of Federal aid. It does not cover discrimination by private employers; nor does it prohibit discrimination in public accommodations.

Thus, today under our Nation's civil rights laws, an employer can no longer say to a prospective employee, "I will not hire you because of the color of your skin, or because you are a woman, or because you are Jewish." If they did, a person could march over to the courthouse, file a law suit, win, and collect damages and attorney's fees.

Yet, to this day, nothing prevents an employer or an owner of a hotel or restaurant from excluding Americans with disabilities. The courthouse door is still closed to Americans with disabilities.

On April 28 of this year, several Senators and Representatives introduced the Americans With Disabilities Act of 198[illegible] and took the first step in opening up the courthouse door to Americans with disabilities. The Americans With Disabilities Act prohibits discrimination against persons with disabilities in areas of employment, public accommodations, transportation, communications, and public services.

It is my expectation that this legislation will become the law of the land during the 101st Congress. However, the road to enactment will be filled with potholes and roadblocks. But if we stick together as a community, and we work with the groups representing employers and the hotel, restaurant, communications, and transportation industries, I believe we can succeed.

We have momentum on our side. When this Administration vetoes the Civil Rights Restoration Act, this Congress overrode it overwhelmingly. When the Fair Housing Act Amendments came before the Congress, we worked closely with the realtors and the homebuilders. We put together a broadbased coalition to get this passed. Again, overwhelmingly, we did it.

We can do the same with the Americans With Disabilities Act. It is good legislation, important legislation, needed legislation, and it is the right thing to do. Almost a quarter century after the passage of the Civil Rights Act of 1964, it is long overdue.

[The prepared statement of Senator Harkin follows:]

OPENING STATEMENT OF TOM HARKIN (D. Iowa), CO-CHAIRMAN
JOINT HEARING ON DISCRIMINATION ON THE BASIS OF HANDICAP
SENATE SUBCOMMITTEE ON THE HANDICAPPED
HOUSE SUBCOMMITTEE ON SELECT EDUCATION
SEPTEMBER 27, 1988

The Senate Subcommittee on the Handicapped and the House Subcommittee on Select Education are proud to hold this joint hearing on the pervasive problem of discrimination in our Nation against Americans with disabilities. I would like to extend a warm welcome to the witnesses and to the hundreds of persons in the audience. This hearing will go down in history as another significant step in Congress' effort to ensure equal opportunity for our 42 million Americans with disabilities.

People with disabilities, like racial and ethnic minorities and women, are entitled to obtain a job, enter a restaurant or hotel, ride a bus, listen to and watch the TV, use the telephone, and use public services free from invidious discrimination and policies that exclude them solely on the basis of their disability. Every American must be guaranteed genuine opportunities to live their lives to the maximum of their potential.

Almost a quarter of a century ago Congress took the historic step of passing the Civil Rights Act of 1964, which, among other things, bars discrimination against persons on the basis of race, color, and national origin by recipients of federal aid and in such areas as employment and public accommodations. Americans with disabilities were not protected by this landmark legislation. In 1968, the Congress and the President took another historic step when it passed the Fair Housing legislation barring discrimination in housing. Once again, people with disabilities were not extended protections by this legislation.

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Yet, to this day nothing prevents an employer or an owner of a hotel or restaurant from excluding Americans with disabilities. The courthouse door is still closed to Americans with disabilities.

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It is my expectation that this legislation will become the law of the land during the 101st Congress. However, the road to enactment will be filled with potholes and roadblocks. But, if we stay together as a community and we work with the groups representing employers and the hotel, restaurant, communications and transportation industries, I believe we can succeed.

We have momentum on our side. When the Administration vetoed the Civil Rights Restoration Act, this Congress overrode that veto overwhelmingly. And, when the Fair Housing Act Amendments came before this Congress, we worked closely with the realtors and the homebuilders and we put together a broad-based coalition to get this landmark legislation passed, again overwhelmingly.

We can do the same with the Americans With Disabilities Act. It's good legislation, important, needed, it's the right thing to do—and almost a quarter-century after the passage of the Civil Rights Act of 1964, it is long overdue.

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For further information, contact Pam McKinney at 202-224-3254, or Bobby Silverstein at 202-224-6265.

Senator HARKIN. I would like to recognize Congressman Coelho now and welcome him to this hearing.

STATEMENT OF HON. TONY COELHO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. COELHO. Thank you, Mr. Chairman.

First off, Mr. Chairman, I would like to thank you and Chairman Owens for holding this hearing. As you and the chairman have both indicated, this is a historic hearing. I think it starts us down a path that has been needed for years.

As you have all indicated, there are approximately 36 million, some people say 43 million, Americans with disabilities that basically do not have their basic civil rights.

As one with a hidden disability, as one who openly discusses my epilepsy, I know what discrimination is. I am not going to go into detail of what is in this bill, because that has already been discussed and will be discussed more. I am only going to discuss briefly with my colleagues, and with those of you in this room, as to why I feel so strongly that this legislation is needed.

I have said repeatedly over the years, please do not dwell on the things that I cannot do, help me do the things that I can do. I can be a wonderfully productive American citizen if you will help me do that. Every American citizen, regardless of their ability or disability cannot do certain things. Just because those of us who are disabled are limited in our ability of doing certain things, does not mean that we are unable of being productive citizens.

It is time that our Government recognizes our abilities and gives us the dignity to do what we can do.

As a young man, I developed seizures, later diagnosed as epilepsy. For many years, for 5 years, as I had my seizures on a regular basis, I did not know what they were. I went to every doctor that you could think of. I also went to three witch doctors because I was supposedly possessed by the devil. My Republican colleagues think I am, but others believed I was. [Laughter.]

As I went to college, I was an achiever. I got outstanding grades in high school and outstanding grades in college. I was student body president in high school and student body president in college. I was outstanding senior in college. I was sought after by different businesses and groups, to be involved in their activities and be employed by them. I had decided that I wanted to be an attorney.

In my senior year, I changed my mind. I decided I wanted to become a Catholic priest. As I graduated with honors, I then had a physical exam in order to enter the seminary. The physical exam pointed out that these seizures that I had been having for 5 years meant that I had epilepsy.

I always remember very well what happened, in that I walked to the doctor's office from my car, sat in the doctor's office, was told about my epilepsy, walked back to my car, got back in my car and drove back to my fraternity house and I was the same exact person. But only in my own mind because the world around me changed.

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My doctor had to notify the legal authorities of my epilepsy. My church was notified and immediately I was not able to become a Catholic priest, because my church did not, at the time, permit epileptics to be priests. My driver's license was taken away, my insurance was taken away. Every job application has the word epilepsy on it and I marked it, because I was not going to lie. I could not get a job.

My parents refused to accept my epilepsy. I became suicidal and drunk by noon. The only reason is because I had not changed as a person. The only reason is that world around me had changed. The light had been turned off, the light of opportunity, the light of hope. Not until a priest friend of mine turned me over to a man of hope by the name of Bob Hope did the light get lit again.

I am here today, serving in the capacity that I serve, because some people believe not because my Government protected me, not because my Government protected my basic civil rights.

I am a major advocate of this bill because I want to make sure that other young people, as their looking for hope, as they believe that the system should work for them, have that hope, have that opportunity.

What happened at Gallaudet University was not only an inspiration, I am sure, to the hearing impaired. What happened at Gallaudet University was an inspiration to all of us with disabilities, in that if we ourselves believe in ourselves and are willing to stand up we can make a difference.

That is what this bill is all about; 36 million Americans deciding it is time for us to stand up for ourselves, to make a difference, to say that we want our basic civil rights also. We deserve it.

Give us an opportunity to do what we can do, do not keep telling us what we cannot do.

I thank my colleagues.

[The prepared statement of Congressman Coelho follows:]

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Congress of the United States
House of Representatives
Office of the Majority Whip

THE AMERICANS WITH DISABILITIES ACT OF 1988
Statement by Rep. Tony Coelho
September 27, 1988

The joint hearing we are participating in today represents another important step in the struggle to secure civil rights protections for Americans with disabilities, our nation's largest minority. The time has come to send a message across America that people with disabilities can no longer be locked out, stigmatized or ignored. The time has finally come to end the discrimination 43 million Americans with disabilities face as they strive to take their rightful place in every aspect of our society.

I am honored to co-chair today's hearing because I belong to this minority. We are a diverse group -- we use wheelchairs, we are blind, we are deaf, many of us have hidden disabilities - epilepsy, cancer, HIV infection, diabetes, mental illness. We have lived in the White House. We live in institutions and nursing homes. We live in large cities and in rural communities. We work in Congress and we work at McDonald's. Many of us aren't permitted to work at all.

No matter our what our disability is, where we live, or what we do, we all share the common experience of discrimination. And we all share a common dream: to live wherever we choose, to work and achieve whatever career goals we strive toward, to communicate with our neighbors, to travel where we choose, and, like all other Americans, to freely use and enjoy public accommodations in our communities.

The Americans with Disabilities Act is a major step towards achieving our dream of equality. This act was developed by the National Council on the Handicapped, an independent federal agency appointed by President Reagan to investigate the status of disabled Americans. Over the past five years, the Council conducted innumerable hearings and forums across this country and reached the same inescapable conclusions again and again: barriers and discrimination, rather than the inherent physical or mental characteristics of persons with disabilities themselves, are to blame for the staggering unemployment and isolation of these citizens, our nation's largest minority.

The Americans with Disabilities Act proposes a series of protections against discrimination which parallel existing civil rights statutes. In drafting this bill, the Council has drawn also on the successful model used by the federal government in eliminating discrimination on the basis of handicap in federally-funded activities. This vision of the National Council on the Handicapped, that existing civil rights could and should be extended to protect the disabled, has been shaped by the input of hundreds of disabled Americans and parents of disabled children.

As the Council found, unfair discrimination is the daily experience of many of the 43 million Americans with disabilities. Every sphere of life is affected: housing, employment, recreation, transportation; even the ability to operate independently in the commercial sphere, or to vote, or to raise children. Our entire society has been inadvertently structured in a way that unnecessarily denies innumerable opportunities, great and small, to people with disabilities, in ways that are never even noticed by most Americans.

Simple daily tasks, like visiting the grocery store or the bank, going to a restaurant or a movie, using the telephone to report an emergency, taking the bus to the doctor, or even getting in and out of one's own home, can become monumental tasks or impossible barriers to overcome -- not due to the actual physical and mental conditions of disabled Americans, but due to prejudice, fears, and unnecessary obstacles which have been placed in their path.

Countless numbers of our fellow citizens who are veterans of foreign conflicts, have acquired a disability while defending their country, only to come home to a society that subjects them to discrimination and injustice, a society that shuns them merely because they are disabled. The architectural, communication and transportation barriers they face do not affect them and their families alone. Our entire society bears the economic burdens of this prejudice: dependency is expensive. It increases benefit entitlements and decreases productive capacity sorely needed by the American economy.

As I can tell you from my own experience with epilepsy, employment discrimination is one of the most pervasive problems affecting Americans with disabilities. Jobs are unfairly denied every day to thousands of capable people with epilepsy and other disabilities due to prejudice, stereotypes and groundless myths about our lack of abilities or because we are erroneously perceived to pose dangers to ourselves and others.

For example, I know one woman with epilepsy who was employed for nearly eight years as a secretary for a company. One day she had a seizure at work and was fired, simply because her employer felt that her co-workers should not have to work with someone like her.

Similarly, a young man with multiple sclerosis was fired from his job because he was unable to handwrite his reports even though he was perfectly capable of dictating them. Or, what of the veteran who lost a leg in Vietnam and was denied a job in a factory line even though he was totally able to perform the job?

These stories, sadly, are all true. Yet these individuals, like many other American citizens, have no remedy to challenge the denial of employment. They want to be productive, self-supporting and tax-paying participants in society, but they have been told that they cannot do so, for reasons that are irrational, illogical, and unjust. This bill gives these persons a remedy.

People with disabilities want to work. This has been confirmed by numerous studies, including the 1986 Lou Harris survey which found that two-thirds of the disabled people polled who are not employed said that they wanted to work. One-quarter of these Americans attributed their unemployment to employer discrimination and an additional 28 percent attributed it to transportation barriers.

The full and dramatic reality of this problem has been largely hidden, denied, and explained away. When a program, or a job, or a school, has excluded disabled people, or segregated them in a separate facility, this has been justified through the unchallenged myth of equating <u>disability</u> with <u>inability</u>. When taking stock of the status of unemployment in our society, the staggering level of disabled employment - 66 percent - is not viewed as a solvable problem, it's viewed as an inevitability. You hear things like, "Of course they can't work. They're disabled." This alleged self-truth has gone substantially unchallenged and is one of the most fundamental errors our society has ever made.

Equating disability with inability is false. In employment, for example, numerous studies have shown that employment for the disabled is restricted more by misconceptions, stereotypes, and generalizations about handicaps, unfounded fears about increased costs and decreased productivity, and outright prejudice, than by people's disabilities themselves. Overwhelmingly, the documentation shows that disabled workers equal or outperform non-disabled workers, without increasing insurance benefits or worker's compensation costs. We have allowed our discomfort with the handicapped, and our feelings of hostility toward them to create this gigantic and wasteful injustice.

Society has neglected to challenge itself and its misconceptions about people with disabilities. When people don't see the disabled among our co-workers, or on the bus, or at the sports field, or in a movie theater, most Americans think it's because they can't. It's time to break this myth. The real reason people don't see the disabled among their co-workers, or on the bus, or at the sports field, or in a movie theater is because of barriers and discrimination. Nothing more.

It is barriers and discrimination that have caused an "out of sight, out of mind" situation with disabled people. When housing is inaccessible and unavailable, the disabled have to stay at home, under the care of their families, or live in nursing homes and other institutions, rather than establishing and controlling their own households next door to you and me. When regular transportation is inaccessible, and transit services for the disabled are segregated, you won't see them on your bus or commuter train. When prejudice dictates that the handicapped can be productively employed only in separate sheltered workshops, you won't see too many in your workplace.

The exclusion and segregation of people with disabilities has had an insidious partner: the gloss of good intentions. An atmosphere of charity and concern has cloaked our ill-treatment of disabled people and permeated our excuses for denying them access to the full benefits of the complex fabric of modern American society. The institutions and the token van rides and the overprotective denials of employment have all been provided with the noblest intent.

While the charity model once represented a step forward in the treatment of persons with handicaps, in today's society it is irrelevant, inappropriate and a great disservice. Our model must change. Disabled people are sometimes impatient, and sometimes angry, but for good reason: they are fed up with discrimination and exclusion, tired of denial, and are eager to seize the challenges and opportunities as quickly as the rest of us.

It is time to stop the excuses and the veneer of good intentions. We must stop the cycle of separateness which hides the people with disabilities, and creates prejudice, which creates more separateness.

In the past, concerns about cost have been raised as an obstacle to our addressing this problem. Estimates of these costs are inflated. For example, when the implications of Section 504 of the Rehabilitation Act of 1973 were debated, universities and hospitals claimed that non-discrimination was absolutely beyond their financial means. We have now had regulations implementing Section 504 over 10 years. During that time, these institutions have not complained of financial difficulties due to accommodating the disabled.

I believe we will find that in the long run, ending discrimination will actually lower costs to our society as a whole. Maintaining discrimination is

expensive because discriminatory barriers keep people out of work, lowers our gross national product and our tax revenue and, what's more, swell benefits payments. Government studies have estimated that eliminating employment discrimination in even a narrow spectrum of jobs would add $58 million to annual government revenues. A Department of Transportation study indicated that, with accessible transportation, SSI benefit savings due to increased employment would account for $276 million a year. Statistics indicated that funds generated by eliminating handicap discrimination would return more than three dollars for every dollar spent. We as a nation stand to cash in quite a bit on the integration, and subsequent enhanced productivity, of people with disabilities.

The Americans with Disabilities Act addresses these basic areas: employment, transportation, public accommodations, public services and communication barriers.

In employment, this Act will make it illegal to deny job opportunities to qualified applicants on the basis of handicap. The Act will cover the same range of employment activities as those covered by Title VII of the Civil Rights Act of 1964.

In transportation, the Act will eliminate barriers by requiring new transportation equipment to be accessible to the disabled. This follows a national trend, in which the current federal mandate to provide useable public transportation for the disabled is being done through lift-fitted and otherwise-accessible equipment. The next step, barriers in existing equipment, will be dealt with by allowing phase-in periods. This way, transit systems will slowly become more and more accessible to the disabled without creating a burdensome cost to the transit districts. The bill provides that para-transit (separate, subsidized door-to-door van systems) can and should still be used, but not as a substitute for regular fixed-route service.

In mandating this particular configuration of transportation services, Congress will be affirming the consensus which is being reached in both the disability community and the transit community after a decade of much experimentation in how best to eliminate transportation barriers. An increasing number of cities large and small, including New York, Denver, Seattle, San Francisco, Tacoma, Johnstown, and Champagne-Urbana, have successfully integrated large numbers of disabled people into their entire transit systems. These cities serve as models to the rest of the country, illustrating how to maximize disabled ridership, minimize costs, and work harmoniously with the disability community.

The Act will prohibit discrimination in public accommodations covered by Title II of the 1964 Civil Rights Act. Also, it will prohibit discriminatory activities of state and local governments resulting from ordinances, laws, regulations, or rules. It includes the continued phase-in of closed captioning in television broadcasts, viewable by deaf and hearing-impaired watchers upon purchase of decoder. Such measures will begin to bring down the many barriers that are so debilitating to the disabled on a day-to-day basis.

The Americans with Disabilities Act of 1988 provides the vehicle through which we can address the critical problem of discrimination on the basis of handicap in our country. We must provide disabled citizens the same equality of opportunity which our nation values so highly. We must all work together toward the day when disabled people face no discrimination. I urge all my colleagues to join us in this fight.

Senator HARKIN. Congressman Coelho just again showed what we know around here to be true, that that testimony that comes from the heart is always the best testimony.

I would like to recognize our distinguished chairman of the Labor and Human Resources Committee, the Senator from Massachusetts, Senator Kennedy.

OPENING STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. Mr. Chairman, just for a moment, because we all want to hear the witnesses, I too want to commend you, Senator Weicker, Major Owens, Congressman Coelho, Congressman Jeffords, for holding these hearings.

I think, as you listen to those who have spoken today, you realize that there probably has not been a family in the country that has not been touched by some form of physical or mental challenge. You have heard some statements today, very moving statements of members of the family. That has been true in the Kennedy family, as well, a sister who is retarded, my own son who has lost a limb to cancer. I bet if you go across this country, there really is not a member of a family or an extended family that has not been touched.

This legislation will become law. I think those that have physical or mental challenge has to take heart by the actions that have been taken very recently in the Congress, with the Fair Housing Act and the Civil Rights Restoration Act. There is a movement and it is alive and it is growing. And it should grow.

This legislation will become law. It will become law not because of the people up here, although all of us want it to become law, but because of you all across this Nation, in the small towns and communities, in the plants and factories all across this Nation, that are really challenging our country to ensure that we are basically going to have an even playing field and we are going to eliminate the barriers that keep people out, so that people can become a real part of the American dream.

I just want to give the assurance to both Senator Harkin, who is the chairman of the Subcommittee on the Handicapped, and Senator Weicker, who has done such a great job in this area as well, that this will be the first order of business when the next Congress meets, assuming that we are all here.

Senator HARKIN. That is great news, the first order of business next year.

[The prepared statement of Senator Kennedy follows:]

STATEMENT OF SENATOR EDWARD M. KENNEDY
ON S. 2345, THE AMERICANS WITH DISABILITIES ACT

For Immediate Release:
September 27, 1988
CONTACT: Paul Donovan
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Today marks the first day of hearings by the Senate Subcommittee on the Handicapped on the Americans with Disabilities Act. At the outset, I want to commend Senator Harkin and Senator Weicker for their leadership on this issue, and for their tireless support in working toward a more just society for the disabled and for all Americans.

The 100th Congress has already adopted two landmark bills to protect the rights of the disabled. The Civil Rights Restoration Act, enacted over the veto of the President, provides substantial protections for the handicapped against discrimination. And the Fair Housing Act of 1988 includes for the first time a series of provisions to bring the disabled within its far-reaching protections.

The Americans with Disabilities Act is the essential next step in our ongoing effort to guarantee that the 36 million physically and mentally challenged citizens of our nation enjoy the same fundamental rights as all other Americans. We recognize that enactment of a law does not necessarily end discrimination or prejudice in our society, but it is often the indispensable means of advancing toward that goal.

With the help of medical science and the commitment of growing numbers of concerned citizens in public and private life throughout the country, we are poised on the threshold of a new era of opportunity in our society for millions of fellow citizens who have been unfairly left out. We are beginning to learn that disabled people are not unable. The old barriers of fear and prejudice and ignorance are crumbling, and the Americans with Disabilities Act will speed the day when those ancient attitudes are finally and fully overcome, and disabled Americans enjoy the right to realize their full potential.

In 1973, Congress took the first step in ensuring that the civil rights of millions of Americans with disabilities are protected. Section 504 of the Rehabilitation Act has served as a symbol of equal citizenship for disabled Americans, an incentive for self-advocacy and community education -- and when necessary, a basis for court action. The legislation we are discussing today builds on what we started in 1973 -- it will provide disabled Americans with the same rights already accorded to women and minorities -- the right to be free from discrimination in all its insidious forms.

Finally, the Americans with Disabilities Act will also halt discrimination against individuals suffering from AIDS or who are infected with the AIDS virus. I am delighted that Admiral Watkins is with us today. The report of his Presidential Commission makes clear that discrimination against victims of AIDS is seriously impairing our ability to halt the spread of the AIDS epidemic, and action by Congress is overdue.

I look forward to this hearing, and I commend all those who have worked so hard to develop this legislation. The Americans with Disabilities Act deserves our high priority in Congress, and I intend to do all I can as chairman of the Labor and Human Resources Committee to expedite its enactment.

Senator HARKIN. I want to recognize my former colleague from the House, an individual I worked very closely with for many years during the House, again an eloquent spokesman for the right of Americans with disabilities, Congressman Jeffords from Vermont.

STATEMENT OF HON. JAMES M. JEFFORDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VERMONT

Mr. JEFFORDS. Thank you very much, Mr. Chairman.

As has been pointed out, individuals with disabilities have been denied for so long, services, jobs, housing, transportation, hotel rooms, a means to communicate, access to Government officials, voting polls, and yes, even restrooms. Such denials have been sustained, systematic and yes, tolerated. No more.

With the introduction of the Americans With Disabilities Act of 1988 and this hearing, we begin in earnest to undo the remaining forms of discrimination against individuals with disabilities.

I wish to commend the National Council on the Handicapped, my esteemed colleagues especially those here today, Mr. Justin Dart, and others for their untiring efforts to document the full range of discrimination experienced by persons with disabilities, thus creating a moral and practical foundation for the expectations reflected in the ADA.

I am looking forward to the testimony of the witnesses here today. They represent a source of guidance and energy, a reflection of potential and determination, and the spirit of cooperation and partnership. They know what discrimination is and how to overcome it. They know what patience is and how to show it. They know what credibility is and how to judge it.

Our family members, our friends and our neighbors with disabilities ask for one simple right, the right to control their own lives, to make choices and to choose. This will not happen until we eliminate all forms of discrimination.

We continue the process of transforming the ADA into law. Its effects should not be judged in terms of cost, but rather realized potential; not be measured in terms of effort, but in increased productivity; and not be characterized as preferential treatment, but as reaffirmed human dignity. Starting today, we must work together to make the ADA a fact, not a gesture; reflected in practice, not promises; and grounded in commitment, not hope.

I was elected in Congress in 1974 and I worked with my colleagues on many acts along these lines, the Education of all Handicapped Children Act, the Rehabilitation Act, especially to extend the protections under section 504 to people seeking services and jobs directly with the Federal Government, the Civil Rights Restoration Act, the Technology Related Assistance Act or Individuals with Disability Act of 1988, and now the ADA.

Although our efforts reflect progress, we know from experience that comprehensive legislation takes great effort. As two of my distinguished figures have recently said, read my lips, the ADA will be enacted.

Thank you. [Applause.]

Senator HARKIN. I recognize our colleague from California, Congressman Martinez.

STATEMENT OF HON. MATTHEW G. MARTINEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MARTINEZ. Senator Harkin, thank you very much.

Let me start off by commending you and Congressman Owens for holding this hearing today on discrimination against disabled Americans.

For too long, these 32 million Americans have been ignored and their civil rights have been denied. They represent the largest minority group in this Nation and it is time that the Congress listened and acted on their concerns.

As chairman of the House Subcommittee on Employment Opportunities, I am proud of the great strides that the Rehabilitation Act has made in fighting employment discrimination, but it is not enough. While the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, religion, sex, or national origin by most employers, no similar protection is provided for disabled workers in the private sector.

I believe the Americans With Disabilities Act would be a giant step in providing that protection. Each and every qualified American should have the right to work to the best of his or her ability and this legislation will ensure that right. Americans willing and capable of work should no longer be judged on their disability but rather on their abilities.

Society and our Nation could benefit greatly from the integration of these individuals, not only into the work force but society as a whole. The ADA will give disabled Americans the right to have a full and productive life, a right which, in today's society, is often denied them.

During the past two Congresses, the Subcommittee on Employment Opportunities has also held hearings on discrimination against disabled Americans. In fact, we had a very eloquent testimony given by the son of Senator Kennedy.

It became evident during those hearings, and I am sure it will become evident today that society and Congress have begun a process of integration, but more needs to be done. I look forward to the testimony of the witnesses today. Senator Harkin, these are the individuals that know firsthand what it is like not to be given a fair and equal chance in the world based not on their ability, but on their disability.

Thank you.

[The prepared statement of Congressman Martinez follows:]

OPENING STATEMENT OF CONGRESSMAN MATTHEW G. MARTINEZ
BEFORE THE SENATE SUBCOMMITTEE ON THE HANDICAPPED
AND THE HOUSE SUBCOMMITTEE ON SELECT EDUCATION

HEARING ON DISCRIMINATION ON THE BASIS OF DISABILITY
SEPTEMBER 27, 1988
216 HART, 10:00 A.M.

SENATOR HARKIN AND CONGRESSMAN OWENS, I WANT TO COMMEND YOU FOR HOLDING THIS HEARING TODAY ON DISCRIMINATION AGAINST DISABLED AMERICANS. FOR TOO LONG, THESE 32 MILLION AMERICANS HAVE BEEN IGNORED AND THEIR CIVIL RIGHTS DENIED. THEY REPRESENT THE LARGEST MINORITY GROUP IN THIS NATION AND IT IS TIME THAT CONGRESS LISTENED AND ACTED ON THEIR CONCERNS.

AS CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES, I AM PROUD OF THE GREAT STRIDES THE REHABILITATION ACT HAS MADE IN FIGHTING EMPLOYMENT DISCRIMINATION AGAINST THE DISABLED AMONGST FEDERAL AGENCIES AND CONTRACTORS. HOWEVER, IT HAS NOT BEEN ENOUGH. WHILE THE CIVIL RIGHTS ACT OF 1964 PROHIBITS EMPLOYMENT DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN BY MOST EMPLOYERS, NO SIMILAR PROTECTION IS PROVIDED FOR DISABLED WORKERS IN THE PRIVATE SECTOR. I BELIEVE THE "AMERICANS WITH DISABILITIES ACT" WOULD BE A GIANT STEP IN PROVIDING THAT PROTECTION.

EACH AND EVERY QUALIFIED AMERICAN SHOULD HAVE THE RIGHT TO WORK TO THE BEST OF HIS OR HER ABILITY AND THIS LEGISLATION WILL ENSURE THAT RIGHT. AMERICANS WILLING AND CAPABLE OF WORK SHOULD NO LONGER BE JUDGED ON THEIR DISABILITY BUT ON THEIR ABILITIES. SOCIETY AND OUR NATION COULD BENEFIT GREATLY FROM INTERGRATING THESE INDIVIDUALS, NOT ONLY INTO THE WORKFORCE, BUT SOCIETY AS A WHOLE. THE ADA WILL GIVE DISABLED AMERICANS THE RIGHT TO HAVE A FULL AND PRODUCTIVE LIFE, A RIGHT WHICH IN TODAY'S SOCIETY IS OFTEN DENIED TO THEM.

DURING THE PAST TWO CONGRESSES, THE SUBCOMMITTEE ON EMPLOYMENT OPPORTUNITIES HAS ALSO HELD HEARINGS ON DISCRIMINATION AGAINST DISABLED AMERICANS. WHAT HAS BECOME EVIDENT DURING THOSE HEARINGS, AND I AM SURE WILL BECOME EVIDENT TODAY, IS THAT SOCIETY AND CONGRESS HAVE BEGUN THE PROCESS OF INTERGRATION BUT MORE NEEDS TO BE DONE.

I LOOK FORWARD TO THE TESTIMONY OF THE WITNESSES. THESE ARE THE INDIVIDUALS THAT KNOW FIRST HAND WHAT IT IS LIKE NOT TO BE GIVEN A FAIR AND EQUAL CHANCE IN THE WORLD, BASED NOT ON THEIR ABILITY, BUT ON THEIR DISABILITY.

Senator WEICKER [presiding]. Congressman, thank you very much. I ask unanimous consent that a statement by Senator Simon of Illinois be included in the record in its entirety.

[The prepared statement of Senator Simon follows:]

PAUL SIMON
ILLINOIS

COMMITTEES:
LABOR AND HUMAN RESOURCES
JUDICIARY
FOREIGN RELATIONS
BUDGET

United States Senate
WASHINGTON, DC 20510

STATEMENT OF SENATOR PAUL SIMON
HEARING ON DISCRIMINATION ON THE BASIS OF DISABILITY
September 26, 1988

Mr. Chairman, I deeply regret that I will not be able to attend this very important hearing. I would like to welcome the witnesses in person, and particularly welcome Mary Linden, from Morton Grove, Illinois. I will be looking forward to reading the testimony of all of the witnesses.

The topic of this hearing is important not only to the millions of Americans who continue to suffer directly the effects of discrimination, but also to our nation. We all feel the effects and are clearly lessened as a nation when we fail to guarantee the rights and use the abilities of all of our citizens.

A recent article in the magazine Busines Week called Americans with disabilities the "last minority." We know from experience that civil rights legislation does not automatically end unfair and unequal treatment of people who have historically been left out of the mainstream. But we have also seen the enormous difference that comprehensive civil rights laws have made in the lives of other American "minorities." We know we can do better -- much better -- in bringing Americans with disabilities into the mainstream of our society -- into the workplace, our communities, our lives. We need the Americans with Disabilities Act to complete the civil rights agenda in this country and to bring equality of opportunity to our "last minority."

I sense we are ready to take the final steps to bring about full equality for Americans with disabilities -- and we will be a far richer nation when we do.

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91-312 42

Mr. COELHO. Mr. Chairman, can I have unanimous consent that a statement by me be put in the record at the end of my remarks?

Senator WEICKER. Indeed, a statement by Congressman Coelho will be included in the record at this point in its entirety, or at the conclusion of his statement.

We now go to the first witness, Sandy Parrino of the National Council on the Handicapped. I would like to say that this is a courageous lady. I might add, she represents a courageous group, the entire council, because indeed theirs has not been an easy road in bringing this legislation before us.

They have resisted the importunings of those that were dedicated either to partisanship or philosophy or special interest, and have tried to bring forth a work product that will do the job for the disabled, period. That was the only thing they had in mind.

I want to thank you, Sandy, by way of this introduction. The floor is yours.

STATEMENT OF SANDRA PARRINO, CHAIRPERSON, NATIONAL COUNCIL ON THE HANDICAPPED, WASHINGTON, DC

Ms. PARRINO. Thank you. Good morning.

My name is Sandra Swift Parrino. I am very honored to lead off testimony about a piece of legislation that is very close to my heart—the Americans With Disabilities Act of 1988.

I am, in private life, a mother with an involvement and commitment to two children born with serious disabilities. I am, in public life, the Chairperson of the National Council on the Handicapped, an independent Federal agency whose Board is comprised of 15 knowledgeable persons with disabilities—and experts on disability service programs. All of us, appointed by the President and confirmed by the Senate.

We are the only Federal agency mandated to address, analyze, and make recommendations on issues of public policy affecting Americans with disabilities. The main thrust of our efforts is toward eliminating barriers which prevent disabled persons from full participation in the mainstream of American life. Barriers, as you will see, that will topple upon passage of the Americans with Disabilities Act which you will hear referred to as ADA.

The National Council on the Handicapped has not been timid in its efforts in both originating and spearheading this legislation. Legislation we first recommended in a report titled "Toward Independence" that was sent to both the President and Congress in 1986.

Legislation we designed after indepth analysis and study. Legislation that is of clear importance to persons with disabilities and to Federal policy regarding disability programs. Legislation that offers constructive, realistic, and fiscally sound solutions to enhance independence and productivity of people with disabilities. Landmark legislation that is a civil rights, equal opportunity bill for 36 million disabled Americans. Legislation that will, in essence, no longer allow 36 million Americans to be left out of the American dream scenario.

The Americans with Disabilities Act of 1988 is not only important to 36 million citizens with disabilities—it is also—as I will il-

lustrate a bit later—of the highest importance to our Nation. From the quadriplegic as the result of a football injury . . . to the child in a hospital crib from rapidly growing numbers of senior citizens to 75,000 Vietnam veterans—the basic nugget of truth is that—due to discriminatory practices—persons with disabilities continue to suffer from the highest rates of unemployment and poverty than any other group of Americans. Less access to decent schooling—housing—work and transportation than anyone in this country—including noncitizens.

ADA is critically important because its provisions are shaped to break the chains that bind many of the 36 million people into a bondage of unjust, unwanted dependency on families, charity, and social welfare. Dependency that is a major and totally unnecessary contributor to public deficits and private expenditures.

These hearings will provide you with a vital source of information to assess the scope and meaning of the Americans With Disabilities Act. On behalf of 36 million citizens, I ask you to keep in mind that for decades disabled people have been waiting. For decades disabled people have seen laws enacted by their elected Representatives that prohibit discrimination for other categories of individuals. For decades, disabled Americans have had to live with the realization that there are no similarly effective laws to protect them.

Today, I am proud to say, there is an emerging group consciousness on the part of disabled Americans, their families, friends and advocates. A consciousness toward mounting political activism.

Martin Luther King had a dream. We have a vision. Dr. King dreamed of an America "where a person is judged not by the color of his skin, but by the content of his character." ADA's vision is of an America where persons are judged by their abilities and not on the basis of their disabilities; 36 million Americans, our Nation's largest and no longer silent minority. Ladies and gentlemen, American cannot afford to discard her disabled brothers and sisters.

In "Toward Independence", our 1986 report to Congress, our vision has been to shape responsible legislation by which Federal disincentives and barriers to employment are removed so that disabled Americans can go to work.

In the 1984 report to Congress by the Rehabilitation Services Administration, it was indicated that for every $1 spent to return a disabled person to work, $18 were returned to the tax base upon their placement. This would include not only taxes paid by the individual, but money saved from the removal of public expenditures.

ADA seeks to protect disabled citizens against discrimination in such areas as transportation, private sector employment, public accommodations, housing and communications and where appropriate the activities of State and local Government agencies.

America cannot afford to discard her disabled people. The majority of disabled people not working said they want to work. The first Louis Harris poll showed that disabled workers in the workplace are rated "good" to "excellent" by an overwhelming majority of their employers. Disability does not mean incompetence. The perception that disabled people are flawed and incapable of caring for themselves is the result of discriminatory attitudes, not the result of disability.

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In a nation with a labor shortage, two-thirds of all disabled Americans between the ages of 16 and 64 years of age are not working. No one demographic group under 65 has such a small proportion working. The two words "not working" are perhaps the truest definition of what it means to be disabled in America today.

As Louis Harris discovered, people with disabilities want to become involved in their communities as taxpaying contributors.

It is contrary to sound principles of fiscal responsibility to spend billions of Federal tax dollars to relegate people with disabilities to positions of dependency upon public support.

People with disabilities represent America's greatest untapped resource of employables who want to work. As we all know, in America, jobs are a major source of status, dignity, and self-esteem. "What do you do," is a conversational staple. To contribute to society and support yourself is a cherished precept of our American vision.

ADA sweeps into obsolescence those obstacles that limit opportunity, promote discrimination, prevent integration, restrict choice and frustrate self-help for the working aged disabled Americans who are unemployed.

May I remind you, America cannot afford to discard her disabled brothers and sisters. Advancing age, economic circumstances, illness, and accident will someday, according to reputable statistics, put most of us, in the category of a person with a disability.

The goals espoused in the Americans with Disabilities Act are economically practical as well as morally correct and humanely necessary. The ADA is legislation that does away with troubling historical echoes. Echoes that must no longer be interpreted by America's disabled citizenry as a life sentence.

Esteemed Members of Congress, in closing, I wish to relay a message from 36 million Americans with disabilities. For decades, we have retained a faith in the reformability and adaptability of our Government. For decades we have been told to have patience, but patience is not an inexhaustible commodity. People with disabilities have waited long enough. America has waited long enough. The Americans with Disabilities Act must be enacted now.

The vision of equality for 36 million Americans with disabilities now rests with you.

I thank you. [Applause.]

[The prepared statement of Ms. Parrino follows:]

TESTIMONY OF SANDRA SWIFT PARRINO, CHAIRPERSON

NATIONAL COUNCIL ON THE HANDICAPPED

GOOD MORNING

MY NAME IS SANDRA SWIFT PARRINO.

I AM HONORED TO LEAD OFF TESTIMONY ABOUT A PIECE OF LEGISLATION THAT IS VERY CLOSE TO MY HEART... THE AMERICANS WITH DISABILITIES ACT OF 1988.

I AM, IN PRIVATE LIFE, A MOTHER WITH AN INVOLVEMENT AND COMMITMENT TO TWO CHILDREN BORN WITH SERIOUS DISABILITIES.

I AM, IN PUBLIC LIFE, THE CHAIRPERSON OF THE NATIONAL COUNCIL ON THE HANDICAPPED. AN INDEPENDENT FEDERAL AGENCY WHOSE BOARD IS COMPRISED OF 15 KNOWLEDGEABLE PERSONS WITH DISABILITIES....AND EXPERTS ON DISABILITY SERVICE PROGRAMS. ALL OF US, APPOINTED BY THE PRESIDENT AND CONFIRMED BY THE SENATE.

WE ARE THE ONLY FEDERAL AGENCY MANDATED TO ADDRESS, ANALYZE AND MAKE RECOMMENDATIONS ON ISSUES OF PUBLIC POLICY AFFECTING AMERICANS WITH DISABILITIES. THE MAIN THRUST OF OUR EFFORTS IS TOWARDS ELIMINATING BARRIERS WHICH PREVENT DISABLED PERSONS FROM FULL PARTICIPATION IN THE MAINSTREAM OF AMERICAN LIFE. BARRIERS, AS YOU WILL SEE, THAT WILL TOPPLE UPON PASSAGE OF THE AMERICANS WITH DISABILITIES ACT WHICH YOU WILL HEAR REFERRED TO AS ADA.

THE NATIONAL COUNCIL ON THE HANDICAPPED HAS NOT BEEN TIMID IN ITS EFFORTS IN BOTH ORIGINATING AND SPEARHEADING THIS LEGISLATION. LEGISLATION WE FIRST RECOMMENDED IN A REPORT TITLED "TOWARD INDEPENDENCE" THAT WAS SENT TO BOTH THE PRESIDENT AND THE CONGRESS IN 1986.

LEGISLATION WE DESIGNED AFTER IN-DEPTH ANALYSIS AND STUDY. LEGISLATION THAT IS OF CLEAR IMPORTANCE TO PERSONS WITH DISABILITIES AND TO FEDERAL POLICY REGARDING DISABILITY PROGRAMS. LEGISLATION THAT OFFERS CONSTRUCTIVE, REALISTIC AND FISCALLY SOUND SOLUTIONS TO ENHANCE INDEPENDENCE AND PRODUCTIVITY OF PEOPLE WITH DISABILITIES.

LANDMARK LEGISLATION THAT IS A CIVIL RIGHTS, EQUAL OPPORTUNITY BILL FOR 36 MILLION DISABLED AMERICANS. LEGISLATION THAT WILL, IN ESSENCE, NO LONGER ALLOW 36 MILLION AMERICANS TO BE LEFT OUT OF THE AMERICAN DREAM SCENARIO.

THE AMERICANS WITH DISABILITIES ACT OF 1988 IS NOT ONLY IMPORTANT TO 36 MILLION CITIZENS WITH DISABILITIES....IT IS ALSO....AS I WILL ILLUSTRATE A BIT LATER...IMPERISHABLY IMPORTANT TO OUR NATION.

FROM THE QUADRIPLEGIC AS THE RESULT OF A FOOTBALL INJURY....TO THE CHILD IN A HOSPITAL CRIB....FROM RAPIDLY GROWING NUMBERS OF SENIOR CITIZENS...TO 75 THOUSANDS VIETNAM VETERANS...THE BASIC NUGGET OF TRUTH IS THAT.... DUE TO DISCRIMINATORY PRACTICES....PERSONS WITH DISABILITIES CONTINUE TO SUFFER FROM THE HIGHEST RATES OF UNEMPLOYMENT AND POVERTY THAN ANY OTHER GROUP OF AMERICANS. LESS ACCESS TO DECENT SCHOOLING..HOUSING..WORK AND TRANSPORTATION THAN ANYONE IN THIS COUNTRY....INCLUDING NON-CITIZENS.

ADA IS OF CRITICALLY IMPORTANT BECAUSE ITS PROVISIONS ARE SHAPED TO BREAK THE THE CHAINS THAT BIND MANY OF THESE 36 MILLIONS INTO A BONDAGE OF UNJUST, UNWANTED DEPENDENCY ON FAMILIES, CHARITY AND SOCIAL WELFARE. A DEPENDENCY THAT IS A MAJOR AND TOTALLY UNNECESSARY CONTRIBUTOR TO PUBLIC DEFICITS AND PRIVATE EXPENDITURES.

THESE HEARINGS WILL PROVIDE YOU WITH A VITAL SOURCE OF INFORMATION TO ASSESS THE SCOPE AND MEANING OF THE AMERICANS WITH DISABILITIES ACT. ON BEHALF OF 36 MILLION CITIZENS I ASK YOU TO KEEP IN MIND THAT...FOR DECADES DISABLED PEOPLE HAVE BEEN WAITING.

FOR DECADES THE DISABLED HAVE SEEN LAWS ENACTED BY THEIR ELECTED REPRESENTATIVES THAT PROHIBIT DISCRIMINATION FOR OTHER CATEGORIES OF INDIVIDUALS. FOR DECADES DISABLED AMERICANS HAVE HAD TO LIVE WITH THE REALIZATION THAT THERE ARE NO SIMILARLY EFFECTIVE LAWS TO PROTECT THEM. TODAY, I AM PROUD TO SAY, THERE IS AN EMERGING GROUP-CONSCIOUSNESS ON THE PART OF DISABLED AMERICANS, THEIR FAMILIES, FRIENDS AND ADVOCATES. A CONSCIOUSNESS TOWARD MOUNTING POLITICAL ACTIVISM. MARTIN LUTHER KING HAD A DREAM. WE HAVE A VISION. KING DREAMED OF AN AMERICA WHERE A PERSON WAS JUDGED NOT BY THE COLOR OF HIS SKIN, BUT BY THE NATURE OF HIS CHARACTER. ADA'S VISION IS OF AN AMERICA WHERE PERSONS ARE JUDGED BY THEIR ABILITIES AND NOT ON THE BASIS OF THEIR DISABILITIES.

36 MILLION AMERICANS...OUR NATION'S LARGEST AND NO LONGER SILENT MINORITY. <u>LADIES AND GENTLEMEN, AMERICA CANNOT AFFORD TO DISCARD HER DISABLED BROTHERS AND SISTERS.</u>

IN SHEPHERDING THIS LEGISLATION FROM RICHLY DESERVED CONCEPT TO STATUTORY CIVIL RIGHTS UMBRELLA...IN "TOWARDS INDEPENDENCE," OUR 1986 REPORT TO CONGRESS, OUR GOAL HAS BEEN TO DEVISE PRACTICAL, RESPONSIBLE LEGISLATION BY WHICH FEDERAL EXPENDITURES RELATING TO DISABILITY ARE MORE PRUDENTLY SPENT WHILE INEFFECTIVENESS AND COUNTER PRODUCTIVITY ARE MINIMIZED.

"IN THE 1984 REPORT TO CONGRESS BY THE REHABILITATION SERVICES ADMINISTRATION, IT WAS INDICATED FOR EVERY $1.00 SPENT TO RETURN A DISABLED PERSON TO WORK, $18.00 WERE RETURNED TO THE TAX BASE UPON THEIR PLACEMENT. THIS WOULD INCLUDE NOT ONLY TAXES PAID BY THE INDIVIDUAL, BUT MONEY SAVED FROM THE REMOVAL OF PUBLIC EXPENDITURES. (SINCE DISABILITY INCREASES WITH AGE, THE COUNCIL'S ROLE IN PREVENTION COULD BE MENTIONED IN THE TESTIMONY)."

ADA SEEKS TO PROTECT DISABLED CITIZENS AGAINST DISCRIMINATION IN AREAS SUCH AS TRANSPORTATION...PRIVATE SECTOR EMPLOYMENT...PUBLIC ACCOMMODATIONS...HOUSING AND COMMUNICATIONS AND WHERE APPROPRIATE THE ACTIVITIES OF STATE AND LOCAL GOVERNMENTS AGENCIES.

IN FACT, BOTH LOUIS HARRIS POLLS SUBSTANTIATED THAT THE TWO WORDS "NOT WORKING" ARE PERHAPS THE TRUEST DEFINITION OF WHAT IT MEANS TO BE DISABLED IN AMERICA TODAY.

AMERICA CAN NOT AFFORD TO DISCARD HER DISABLED PEOPLE. THE MAJORITY OF DISABLED PEOPLE NOT WORKING SAID THAT THEY WANT TO WORK. THE FIRST LOUIS HARRIS POLL SHOWED THAT DISABLED WORKERS IN THE WORKPLACE ARE RATED "GOOD" TO "EXCELLENT" BY AN OVERWHELMING MAJORITY OF THEIR EMPLOYERS.

DISABILITY DOES NOT MEAN INCOMPETENCE. THE PERCEPTION THAT THE DISABLED ARE FLAWED AND INCAPABLE OF CARING FOR THEMSELVES IS THE RESULT OF

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DISCRIMINATORY ATTITUDES...NOT THE RESULT OF DISABILITY. AS LOUIS HARRIS DISCOVERED, PEOPLE WITH DISABILITIES WANT TO BECOME INVOLVED IN THEIR COMMUNITIES AS TAXPAYING CONTRIBUTORS.

IT IS CONTRARY TO SOUND PRINCIPLES OF FISCAL RESPONSIBILITY TO SPEND BILLIONS OF FEDERAL TAX DOLLARS TO RELEGATE PEOPLE WITH DISABILITIES TO POSITIONS OF DEPENDENCY UPON PUBLIC SUPPORT.

MAY I REMIND YOU, PEOPLE WITH DISABILITIES REPRESENT AMERICA'S GREATEST UNTAPPED RESOURCE OF EMPLOYABLES WHO WANT TO WORK.

AS WE ALL KNOW, IN AMERICA JOBS ARE A MAJOR SOURCE OF STATUS, DIGNITY AND SELF-ESTEEM. "WHAT DO YOU DO?" IS A CONVERSATIONAL STAPLE, TO CONTRIBUTE TO SOCIETY AND SUPPORT YOURSELF IS A CHERISHED PRECEPT OF OUR AMERICAN VISION.

ADA SWEEPS INTO OBSOLESCENCE THOSE OBSTACLES THAT LIMIT OPPORTUNITY, PROMOTE DISCRIMINATION, PREVENT INTEGRATION RESTRICT CHOICE AND FRUSTRATE SELF-HELP FOR THE 65 PERCENT OF NON-INSTITUTIONAL WORKING AGE DISABLED AMERICANS WHO ARE UNEMPLOYED.

AMERICA CAN NOT AFFORD TO DISCARD HER DISABLED BROTHERS AND SISTERS. ADVANCING AGE, ECONOMIC CIRCUMSTANCES, ILLNESS, ACCIDENT WILL SOMEDAY, ACCORDING TO REPUTABLE STATISTICS, PUT ALL OF US, OR A LOVED ONE, IN THE CATEGORY OF A PERSON WITH A DISABILITY.

THE GOALS ESPOUSED IN THE AMERICANS WITH DISABILITIES ACT ARE ECONOMICALLY PRACTICAL AS WELL AS MORALLY CORRECT... AND HUMANELY NECESSARY. THE ADA IS LEGISLATION THAT DOES AWAY WITH TROUBLING HISTORICAL ECHOES. ECHOES THAT MUST NO LONGER BE INTERPRETED BY AMERICA'S DISABLED CITIZENRY AS A LIFE SENTENCE.

IN CLOSING I WISH TO RELAY A MESSAGE FROM 36 MILLION DISABLED AMERICANS. FOR DECADES WE HAVE RETAINED A FAITH IN THE REFORMABILITY AND ADAPTABILITY OF OUR GOVERNMENT. FOR DECADES WE HAVE BEEN TOLD TO HAVE PATIENCE. BUT PATIENCE IS NOT AN INEXHAUSTIBLE COMMODITY. PEOPLE WITH DISABILITIES HAVE WAITED LONG ENOUGH. AMERICA HAS WAITED LONG ENOUGH. THE AMERICANS WITH DISABILITIES ACT MUST BE ENACTED NOW. THE HOPES, ASPIRATIONS AND VISIONS OF 36 MILLION AMERICANS WITH DISABILITIES NOW RESTS WITH YOU.

Senator WEICKER. Sandy, thank you very much.

To the members of the panel, we have extraordinary individuals who have come to testify on this act. I would hope we could keep our questions down to a minimum, in order that all might have a chance to present their story, possibly each one of us only asking a question or two.

Sandy, very briefly, has a position been stated on this legislation by the Administration?

Ms. PARRINO. At this time, this legislation reflects the views of the members of the National Council on the Handicapped. However, both Presidential nominees have endorsed the bill.

Senator WEICKER. Last, in your view, is it possible to eliminate discrimination against persons with disabilities without Federal legislation?

Ms. PARRINO. I think the testimony answers that question. We have waited. We have been patient. It has not happened. I think that it is necessary to have this legislation.

Personally, I find that the fact that my two children are not protected under the Constitution to be unacceptable to me and it is unacceptable to me that 36 million disabled Americans are not protected under the Constitution. I think we need the legislation.

Senator WEICKER. Congressman Owens.

Mr. OWENS. Mr. Chairman, I have no questions. I would just like to join Senator Harkin in congratulating Mrs. Parrino on the magnificent job that was done in achieving consensus on this piece of legislation, and to thank her for the many years of hard work it took to get to this point.

Senator WEICKER. Congressman Jeffords.

Mr. JEFFORDS. Just one question. You mention a labor shortage which would indicate a need and if we end discrimination we would have an available resource, a human resource. Is the training that is available under present Federal legislation sufficient to handle the ability to make that resource available?

Ms. PARRINO. There is not enough training at the moment. We spend much too much in sustaining dependency and not enough in rehabilitating and training and educating.

Mr. JEFFORDS. Thank you.

Senator WEICKER. Senator Kennedy.

Senator KENNEDY. Just one question. We will probably hear a good deal of discussion about the cost of this legislation. I think it has been well documented, and you have certainly referred to the fact, that if this legislation is actually implemented, the possibilities that it gives for those that are physically handicapped and handicapped will be able to be much more productive in terms of the kinds of returns that will come back, not only in human terms but actually in financial terms, will be useful as well.

I wonder if you would just address that briefly, because this will certainly that, on the floor of the Senate, will be asked about. If you could tell us, if we achieve this legislation, whether people will be able to, you believe, be much more productive in terms of being involved in our economy? I am sorry we have to have this kind of a bottom line type of a question, but I think that is what is on people's minds these days, unfortunately.

Ms. PARRINO. The National Council is seeking to provide Congress with some kind of economic analysis of this bill. We are in the process of finding the appropriate people to do that, because it will be asked in the winter or the spring, we are sure.

There is a lot of data available in some of the areas, and there is also a lot of data that is not available. We are trying to first find what has already been done, what analysis has been done, and then see where the holes are, what has to be looked into.

I think we will be able to put some kind of a picture together by the spring. It is certainly a question that will be asked and has to be answered, but your reference to the labor shortage, we wonder just what this country is going to do as we know there is going to be a tremendous shortage of workers. It is a perfect match that we have here.

I certainly would hope we would not go looking outside the country to fill those jobs when we have a population here who wants to work in all levels of employment. So I think economically, if we look at it that way, it will be a great plus to us.

Senator KENNEDY. I appreciate that, and I hope you will keep us informed. It seems to me to be reasonably self-evident. If you eliminate these barriers and people are able to participate, that they are going to be productive members of society and they will also be contributing members to the society, in terms of their involvement in our whole economy.

I think whatever material we can have on that will be generally useful. Thank you very much.

Senator WEICKER. Congressman Coelho.

Mr. COELHO. Thank you, Senator.

Sandy, outstanding statement. Very, very nicely done. All of us appreciate your work and your effort and your presentation today.

Only one comment and one question. The comment is, do not have any more patience.

Ms. PARRINO. I think it has run out, do you not?

Mr. COELHO. It is time, I think, to stand up. I think Gallaudet proved that and sort of lit a spark not only with the hearing disabled but with the disability community all over the country. We do not want to be patient anymore. So I hope that you do not believe that anymore. Let us move on.

The question I have is that your statement that it is up to us now to adopt it is correct, but you understand politics. You know that that is not the way it is done. What is really important is the grassroots.

You and I talk about 36 million or 43 million—and we move between those numbers, it is somewhere in there—Americans with disabilities. If 36 million Americans would contact their legislative leaders, and urge upon them the need for this legislation, it would be done. That is a tremendous political force.

I am, as I said, one of those in the disabled community. I do not think we have done enough of educating my colleagues, as to what we want and what we do not want. That is why I say patience is over with.

I would just ask the question what are you doing, in the grassroots, to get all the groups to lobby on the ADA bill? We have 130

sponsors in the House. I do not know how many in the Senate. But that is not enough.

Ms. PARRINO. To try and answer your question, of course the members of the National Council on the Handicapped are not allowed to lobby, and of course we do not.

Mr. COELHO. We understand that. Not that we have got that out of the way.

Ms. PARRINO. Now that that is out of the way. [Laughter.]

However, we certainly believe in education. The Council is preparing some information on the bill, some questions and answers and an explanation, sort of in plain English, what the bill means. We hope to go, the staff and the members, to all 50 States and to just educate people at a State level, and then encourage them to educate people down to the grassroots level.

We are only 15 members and our staff, we only have 8, so it is a very large job. But we are going to attempt to do it. We will not go out and tell people what they should do regarding their Congressmen, but we will educate them about the bill, tell them what it means, and why it has been written and why it has been introduced.

Mr. COELHO. Thank you.

Senator WEICKER. Congressman Martinez.

Mr. MARTINEZ. Thank you, Senator Weicker.

I have a question along the same line that the Senate asked. Maybe it is a little bit different, or maybe the response to his was not exactly what I was looking for. I am interested in what the present administration's reaction was to the Council's report, first. Second, we have, in the Federal sector, a law that is supposed to protect the physically challenged. I am wondering if the Council, in its examination of everything, made a determination of whether that law is effective.

Anytime Congress acts, it holds out great hope to the people that look to benefit from that act of Congress. In many instances the followup or administration of that law does not occur. So those people that held up that hope are very disappointed. In this particular area, I would hate to see these people disappointed because they have worked so hard to see this come about.

So the two questions are one, what was the administration's reaction? Two, in your observations, how is the present law in the Federal sector working?

Ms. PARRINO. Well, to answer your first question, sitting behind me is our new Executive Director, Paul Hearne. Paul was sworn in to his position in August by the Vice President. At that swearing in, he indicated a need for Federal antidiscrimination legislation, to protect the rights of disabled people, and he mentioned this bill.

So that, I would say, there has been a level of acceptance of this legislation from the administration.

Mr. MARTINEZ. The second question regards the law that presently exists in the Federal sector, that protects the physically disabled.

Ms. PARRINO. Are you referring to 504 regulations?

Mr. MARTINEZ. Yes.

Ms. PARRINO. Is that adequate?

Mr. MARTINEZ. Is it working? As with various other things, under our supervision as the oversight subcommittee on Employ-

ment Opportunities, we find that the EEOC has not really placed enough emphasis on those things that provide affirmative action in the workplace.

I am wondering if, in this instance, the same thing is occurring, that where we have the law on the books really no one is paying attention to it and the physically disadvantaged continue to be discriminated against?

Ms. PARRINO. Well, here goes my hometown. I agree with you, not enough is being done. There is not enough compliance.

The village I live in, in Westchester County, Briar Cliff Manor, which does participate in revenue sharing, could not see fit to put a ramp in until just this year. Therefore, people in that town, that village, who wanted to go into the town hall and participate in town meetings or decisions that were being made for the population, disabled were not able—certainly physically disabled people were never able to get into that town hall.

That is just one example that has certainly irritated me for many years. I think it is true in communities all over the country. There has not been enough compliance in the 504 regulations. That is a personal opinion.

In that regard, then, does there need to be something put into the law that has teeth in it to force compliance?

Ms. PARRINO. I am not an attorney, and I do not know that I can really answer that, but my uneducated guess would be yes, that there has to be something. It is not enough to just have it down on the books because the similar situation with education.

All the classrooms were supposed to have been made accessible, but many schools are not. Many schools do not have the elevators or the accessibilities, to this day, 13 years after the bill was enacted. They still are not accessible and the classrooms are not accessible.

I would say that we would need some more, I guess, teeth you call it.

Senator WEICKER. Sandy, thank you very much. There will be further questions which can be submitted for the record. Thank you for your effort. Thank you for your courage. It is good to have the endorsement of the National Council. We will take it from here.

Ms. PARRINO. Thank you.

Senator WEICKER. Our next witness is Admiral Watkins. Again, in this particular instance, I would like to commend the Admiral for his courage for bringing sanity and common sense and fact to the discussion of AIDS within this Nation.

Before you arrived on the scene with your Commission, we were dealing with ignorance, superstition, fear, and philosophy. You have turned that around. You have my eternal gratitude for turning it around, you and your entire Commission.

Again, I will use that by way of introduction at this hearing. Thank you very much.

STATEMENT OF ADM. JAMES WATKINS, CHAIRPERSON, PRESIDENT'S COMMISSION ON THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC, WASHINGTON, DC

Mr. WATKINS. Thank you, Senator Weicker.

It is not only a pleasure to come over again to Capitol Hill to talk to important committees, but I am particularly honored that you would ask me to come over to testify on behalf of the Americans With Disabilities Act.

As former chairman of the President's Commission on the HIV Epidemic, I spent most of my time in the last year working with those who have a disability, the HIV infection, and those who, because of their infection, join millions of other Americans with handicaps and disabling conditions.

The Commission held over 45 days of public hearings and site visits in preparation for its report to the President. As I participated in these rigorous and, to my knowledge, unparalleled set of hearings, one point became clear early on, that without strong Federal antidiscrimination laws, to protect those with HIV from discrimination in both the public and private sectors, they would continue to face the unfair discrimination that other disabled persons have always faced.

As I prepared for this testimony today, I went back to read the section of our Commission's report on discrimination. Quite frankly, I felt it impossible to improve upon the words that we labored over for some weeks, so I would like to submit that section of the report in its entirety for my formal written statement.

Now, I would also like to summarize some of its points. Of course, my focus is obviously on AIDS and the HIV infection. Nevertheless, if the HIV epidemic had never occurred and, having experienced a unique opportunity over the past year to witness behaviors of many Americans toward their own neighbors, I would support the Americans With Disabilities Act so that all of our citizens with disabling conditions be guaranteed fair treatment in the workplace, schools, and housing.

My predecessor here this morning said enough time has, in my opinion, been given to the States to legislate what is right. Too many States, for whatever reason, still perpetuate confusion. It is time for Federal action.

Throughout our investigation of the spread of HIV in the United States, the Commission was confronted with a problem of discrimination against individuals with HIV seropositivity and all states of HIV infection, including AIDS.

At virtually every commission hearing, witnesses attested to discrimination's occurrence and its serous repercussions for both the individual who experiences it and for this Nation's effort to control the epidemic. Many witnesses indicated that addressing discrimination is the first critical step in the Nation's response to the epidemic.

HIV-related discrimination is impairing this Nation's ability to limit the spread of the epidemic. Crucial to this effort are epidemiological studies to track the epidemic as well as the education, testing and counseling of those who have been exposed to the virus. Public health officials will not be able to gain the confidence and

cooperation of infected individuals or those at risk for infection if such individuals fear that they will be unable to retain their jobs and their housing, and that they will be unable to obtain the medical and support services that they need because of discrimination based on a positive HIV antibody test.

As long as discrimination occurs, and no strong national policy with rapid and effective remedies against discrimination is established, individuals who are infected with HIV will be reluctant to come forward for testing, counseling, and care. This fear of potential discrimination will limit the public's willingness to comply with the collection of epidemiological data and other public health strategies, will undermine our efforts to contain the epidemic, and will leave HIV-infected individuals isolated and alone.

In general, because HIV is blood-borne and sexually transmitted, there is no need to treat those infected with HIV in a manner different from those not infected in such settings as the workplace, housing, and the schools. In the vast majority of workplace and public settings, there is virtually no risk of direct exposure to body fluids which could result in HIV transmission.

Detailed Centers for Disease Control guidelines have been issued for dealing with HIV infection in those cases which require special handling, such as health care workers and other workers who might be exposed to blood or those school children who lack control of bodily secretions.

Therefore, discrimination against persons with HIV infection in the workplace setting, or in the areas of housing, schools, and public accommodations, is unwarranted because it has no public health basis. Nor is there any basis to discriminate against those who care or associate with such individuals.

As a witness at the Commission's hearings on discrimination explained, individuals infected with HIV face two fights: The fight against the virus and the fight against discrimination. Just as the HIV-infected must have society's support in their fight against the virus, these individuals must have society's support in their fight against discrimination and must have assurances that policies will be implemented to prevent discrimination from occurring in the future.

Furthermore, each act of discrimination, whether publicized or not, diminishes our society's adherence to the principles of justice and equality. Our leaders at all levels, National, State, and local, should speak out against ignorance and injustice, and make clear to the American people that discrimination against those disabled for whatever reasons will not be tolerated. This is the guts of your act.

The National Council on the Handicapped, an independent Federal agency comprised of 15 members appointed by the President to make recommendations on public policy issues affecting people with disabilities, included the proposal for a comprehensive Federal law of this kind in their January 1988 report to the President.

Their proposal, the Americans With Disabilities Act of 1988, of course, is the focal point of these hearings here today. It is what the Commission believes is the type of comprehensive, disability antidiscrimination legislation which should then serve as a model for all Federal legislation in this area.

I would like to close, Mr. Chairman, with one final comment. As the Commission debated this section of our report, one of the physicians on our panel, Dr. Burton Lee, a distinguished cancer specialist, made the following point. Dr. Lee said that in treating literally tens of thousands of lymphoma patients, even today, these patients faced almost inevitably some sort of discrimination once news of their disease became public.

Dr. Lee strongly supports the ADA because of the incredibly debilitating effects discrimination has on his own patients. He said that such a protection in law, particularly at a cancer patient's most vulnerable moment, can mean the difference between a premature death, or years more of life with family and friends.

Work, a decent place to live, a chance for an education are the essentials of life. Passage of the ADA will ensure that no one will lose these essentials simply because they have a disabling condition.

Thank you, Mr. Chairman, for allowing me to appear before you this morning.

[The prepared statement of Admiral Watkins, with an attachment, follows:]

STATEMENT OF ADMIRAL JAMES WATKINS

GOOD AFTERNOON:

I GREATLY APPRECIATE THE OPPORTUNITY THIS AFTERNOON TO BRIEFLY ADDRESS THE PRIVATE SECTOR LEADERSHIP CONFERENCE ON AIDS. AS YOU KNOW, FROM OCTOBER OF 1987 UNTIL JULY, I WAS THE CHAIRMAN OF THE PRESIDENTIAL COMMISSION ON THE HIV EPIDEMIC, A JOB WHICH REQUIRED MY FULL-TIME ATTENTION. I CAN TRUTHFULLY SAY THAT, HAVING BEEN INVOLVED IN PUBLIC SERVICE FOR THE LAST ___ YEARS, MY ROLE AS CHAIRMAN OF THE COMMISSION WAS THE MOST COMPLICATED AND DIFFICULT OF MY CAREER.

IN RETROSPECT, I SEE THAT THE COMMISSION BEGAN AS MANY AMERICAN INSTITUTIONS ARE STILL OPERATING, IN THE DARK, WITHOUT DIRECTION, THAT IS WITHOUT THE PROPER PLANNING NECESSARY TO DEAL WITH AIDS. AFTER THE COMMISSION CONDUCTED 50 DAYS OF PUBLIC HEARINGS AND [illegible]S, OUR PERSPECTIVE WAS MUCH DIFFERENT AND WE WERE ABLE TO PUT TOGETHER A FINAL REPORT WHICH HAS BEEN WIDELY PRAISED.

YOU SEE, AFTER YOU'VE DONE YOUR HOMEWORK, THE HIV EPIDEMIC REALLY ISN'T SO HARD. ABOUT FIVE MONTHS INTO OUR

ASSIGNMENT, IT BECAME CLEAR TO ALL THE COMMISSIONERS THAT WE WERE HEARING AN INCREDIBLE AMOUNT OF CONSENSUS FROM OUR WIDE VARIETY OF HUNDREDS OF WITNESSES. THESE WERE PEOPLE FROM ALL WALKS OF LIFE, ALL POINTS OF VIEW. WHILE THEY DIFFERED ON SOME OF THE FINE POINTS OF PUBLIC POLICY, THE GREAT MAJORITY SUPPORTED A COMMON SENSE APPROACH TO DEALING WITH THE HIV EPIDEMIC.

THIS CONSENSUS OF ACTION IS WHAT YOU SEE IN THE COMMISSION'S REPORT--A COMMON SENSE APPROACH. WE TRY, AND I BELIEVE WE SUCCEED, TO SPEAK TO THE BASIC GOODNESS AND FAIRNESS THAT IS THE CENTERPIECE OF AMERICAN LIFE. NOBODY SHOULD GET SPECIAL TREATMENT, AND EVERYONE SHOULD BE TREATED FAIRLY WHEN THEY ARE SICK.

THIS IS MY FIRST PUBLIC APPEARANCE SINCE I LEFT FOR VACATION IN A REMOTE PART OF CANADA IN MID-JULY. BECAUSE I WAS NOT IN WASHINGTON, OR REACHABLE BY PHONE WHEN THE PRESIDENT ISSUED HIS FIRST IN A SERIES OF IMPLEMENTING ANNOUNCEMENTS, I MISSED BEING PART OF THE FIRST WAVE OF REACTION. I WOULD LIKE

TO GIVE YOU MY REACTION TODAY, AS IT IS RELATED TO THE SPECIAL MISSION AMERICAN BUSINESS AND LABOR HAVE IN DEALING WITH THE HIV EPIDEMIC.

AS MANY OF YOU KNOW, THE CENTERPIECE OF THE COMMISSION'S AIDS STRATEGY WAS PASSAGE OF FEDERAL AND STATE ANTIDISCRIMINATION LAWS WHICH CLEARLY STATE THAT THOSE WITH HIV ARE DISABLED AND HAVE A HANDICAPPING CONDITION. SO FAR, MANY STATES HAVE PASSED SUCH LAWS, BUT ACTION ON THE FEDERAL LEVEL HAS BEEN MUCH SLOWER. THE SENATE SUBCOMMITTEE ON THE HANDICAPPED WILL BE HOLDING ITS FIRST DAY OF HEARINGS ON SUCH A LAW ON SEPTEMBER 29TH AND I WILL BE A WITNESS AT THAT HEARING IN STRONG SUPPORT OF THE AMERICANS WITH DISABILITIES ACT. SO FAR, THE HOUSE HAS NOT HELD ANY HEARINGS ON THE ADA BILL, AND SEPARATE LEGISLATION TO EXTEND CIVIL RIGHTS COVERAGE FOR ONLY THOSE WITH HIV WAS DROPPED FROM A HOUSE BILL IN JUNE.

THIS LEGISLATION IS ESSENTIAL AS, AND I QUOTE FROM OUR REPORT, "HIV-RELATED DISCRIMINATION IS IMPAIRING THIS NATION'S ABILITY TO LIMIT THE SPREAD OF THE EPIDEMIC...AS LONG

AS DISCRIMINATION OCCURS...INDIVIDUALS WHO ARE INFECTED WITH HIV WILL BE RELUCTANT TO COME FORWARD FOR TESTING, COUNSELING, AND CARE. PUT YOURSELF IN THE SHOES OF SOMEONE WHO IS AFRAID HE WILL LOSE HIS JOB AND HOME, AND WHO MIGHT HAVE 10 OR 15 YEARS FROM TIME OF INFECTION UNTIL ANY SYMPTOMS ARE PRESENT. THE COMMISSION FELT THAT THIS PERSON SHOULD BE TREATED LIKE ANYONE ELSE WHO HAS CANCER, HEART DISEASE, DIABETES OR ANY OTHER DISABLING CONDITION. NO SPECIAL TREATMENT, JUST FAIR TREATMENT.

AS YOU CAN SEE, THE CONGRESS HAS NOT GOTTEN VERY FAR IN THIS PROCESS. I INTEND TO WORK WITH MEMBERS OVER THE NEXT YEAR TO MAKE SURE THIS NECESSARY LEGISLATION TO COVER THE RIGHTS OF ALL ILL AND DISABLED PEOPLE IN BOTH THE PUBLIC AND PRIVATE SECTORS IS ENACTED AND SIGNED INTO LAW. BOTH PRESIDENTIAL CANDIDATES HAVE ENDORSED THIS TYPE OF LEGISLATION.

HOWEVER, AS IMPORTANT AS PASSAGE OF A FEDERAL ANTIDISCRIMINATION LAW IS, THE COMMISSION ALSO RECOGNIZED THAT

PASSAGE OF CIVIL RIGHTS LAWS CAN BE A SLOW PROCESS. I QUOTE:

"THE COMMISSION RECOGNIZES THAT PASSAGE OF MORE COMPREHENSIVE DISABILITY DISCRIMINATION LEGISLATION BY CONGRESS MAY TAKE TIME. THEREFORE, THE COMMISSION BELIEVES THAT IT IS IMPERATIVE FOR THE FEDERAL GOVERNMENT TO TAKE IMMEDIATE STEPS TO INFORM THE PUBLIC REGARDING EXISTING FEDERAL ANTIDISCRIMINATION LAW AND REGARDING THE REMEDIES WHICH ARE AVAILABLE...."

I AM CONCERNED THAT THE DEBATE OF THE LAST TWO MONTHS HAS NOT FOCUSED PROPERLY ON WHAT WAS ACTUALLY IN THE PRESIDENT'S STATEMENT, AND THAT IS AN ENDORSEMENT OF THE OFFICE OF PERSONNEL MANAGEMENT GUIDELINES FOR ALL FEDERAL AGENCIES, BUT ALSO, MOST IMPORTANTLY, AS A STANDARD OF CONDUCT FOR THE NATION.

WE DO NOT HAVE TO WAIT UNTIL THE ADA BILL IS PASSED NEXT YEAR TO USE THE OPM GUIDELINES AS A MODEL FOR ALL AMERICAN BUSINESSES. I URGE EVERYONE HERE TODAY TO GET A COPY OF THE

GUIDELINES AND ENDORSE THEM IN YOUR WORKPLACE. WHEN I FIRST HAD A CHANCE TO REVIEW THEM, I WAS SO IMPRESSED WITH THEIR CLARITY. CONNIE HORNER, THE DIRECTOR OF OPM, HAD PUT INTO WORDS THE COMMON SENSE WE NEED ON THIS ISSUE.

THE ROLE OF AMERICAN BUSINESS AND LABOR IS CENTRAL IN ESTABLISHING FAIR EMPLOYMENT POLICIES AS WELL AS POTENTIALLY BEING THE MAJOR AVENUE OF EDUCATION ON THE HIV EPIDEMIC FOR THE AVERAGE AMERICAN. LET US TAKE THE TRAGEDY OF AIDS AND TURN IT INTO AN OPPORTUNITY TO IMPROVE THE EDUCATION AND HEALTH OF ALL AMERICANS. WHAT THE WORKER LEARNS IN THE WORKPLACE ABOUT THE HIV EPIDEMIC, AS WELL AS HIS OR HER OWN HEALTH, IS TAKEN HOME AND SHARED WITH THE REST OF THE FAMILY. WE MUST NOT MISS THE OPPORTUNITY TO EDUCATE WORKERS ABOUT HOW THEY CAN MAINTAIN A HEALTH LIFESTYLE FOR THEMSELVES AND THEIR FAMILIES.

MANY PEOPLE HAVE ASKED ME WHAT MY GREATEST WORRY IS FOR THE FUTURE WITH THE HIV EPIDEMIC, AND I ALWAYS ANSWER--OUR TEENAGERS, AND THE ROLE OF DRUG ABUSE IN FUTURE SPREAD OF HIV. WITH REGARD TO THE LATTER, IT IS TIME THAT WE COLLECTIVELY

RENOUNCE THE USE OF ILLEGAL DRUGS. WE NEED STRONGER LAW ENFORCEMENT POLICIES THAT REACH NOT ONLY THE STREET MERCHANT IN HARLEM, BUT THE YUPPIE ON WALL STREET. WE NEED A GREATLY EXPANDED TREATMENT SYSTEM, SO THAT ANYONE WHO DESIRES HELP IN KICKING THE HABIT CAN DO SO. PERIOD. ANYONE, ANYTIME, NO MORE SIX MONTH WAITING LISTS.

WITH REGARD TO OUR YOUNG PEOPLE, THE FUTURE OF OUR NATION, WE ARE LEARNING MANY LESSONS FROM THIS EPIDEMIC. WE HAVE SEEN THAT IT IS BETTER, LESS EXPENSIVE, AND FAR MORE HUMANE TO PREVENT A PROBLEM THAN TO CORRECT IT -- AND IF THIS IS TRUE FOR HIV, IT IS EVEN MORE TRUE FOR DRUG ABUSE. WE HAVE SEEN THAT SCIENCE DOES NOT HOLD ALL THE ANSWERS TODAY, AND MAY NOT TOMORROW. WE HAVE SEEN THAT EDUCATION IS OUR GREATEST WEAPON AGAINST THIS EPIDEMIC, AND AGAINST SO MANY OF OUR OTHER PROBLEMS NEEDING SOLUTIONS. AND WE HAVE SEEN THAT WE CANNOT FIND THOSE SOLUTIONS ALONE. ONLY THROUGH THE EFFORTS OF MANY, WORKING TOGETHER, WILL THESE BOULDERS FINALLY BEGIN TO BE ROLLED AWAY.

LET US USE THIS EPIDEMIC AS A CATALYST. LET US SEE IT AS PROVIDING OPPORTUNITIES TO CREATE A BETTER NATION FOR OUR CHILDREN TO INHERIT. LET US ELIMINATE INEQUITIES IN OUR HEALTH CARE DELIVERY SYSTEM; EDUCATE OUR YOUNG PEOPLE ABOUT THEIR OWN HUMAN BIOLOGY; ELIMINATE DISCRIMINATION, AND HARNESS THE GOODNESS ALREADY AT WORK OUT THERE INTO AN UNBEATABLE ARMY AGAINST THIS DISEASE.

YOUR LEADERSHIP IN ACHIEVING THESE GOALS IS ESSENTIAL, AND I APPLAUD ALL THAT MANY OF YOU HAVE ALREADY DONE TO ATTACK AND CONQUER SO MANY OF THESE PROBLEMS. I AM ALSO GRATEFUL THAT YOU ALLOWED ME TO COME BEFORE YOU TODAY TO CHALLENGE YOU CONTINUE TO WORK -- SINCLY AND TOGETHER, WITH GOVERNMENT, AND TO IMPROVE THAT GOVERNMENT WHEN NECESSARY -- TO REMOVE THE MANY OBSTACLES IN THE WAY OF FREE AND HEALTHY LIVES FOR OUR YOUNG PEOPLE.

FINALLY, I WANT TO PAY A SPECIAL TRIBUTE TO THE WORK OF B.J. STILES AND THE NATIONAL LEADERSHIP COALITION ON AIDS. NOT ONLY HAVE THEY PROVEN AN EFFECTIVE NATIONAL ORGANIZATION

ENCOURAGING DEVELOPMENT OF AND OTHER RATIONAL WORKPLACE AND PUBLIC POLICIES, BUT AT OUR DARKEST HOUR LAST OCTOBER, B.J. AND HIS BOARD STEPPED FORWARD TO EXTEND THE HAND OF FRIENDSHIP TO ME AND THE OTHER COMMISSIONERS, AND WISH US WELL IN OUR WORK. IT WAS A GENEROUS GESTURE, AND THE WORKING RELATIONSHIP BETWEEN THE LEADERSHIP COALITION AND THE COMMISSION WAS EXCELLENT THROUGHOUT MY TENURE. I WANTED TO THANK B.J. PUBLICLY TODAY FOR THAT.

THANK YOU.

CHAPTER NINE: LEGAL AND ETHICAL ISSUES

Section I. Discrimination

Throughout our investigation of the spread of HIV in the United States, the Commission has been confronted with the problem of discrimination against individuals with HIV seropositivity and all stages of HIV infection, including AIDS. At virtually every Commission hearing, witnesses have attested to discrimination's occurrence and its serious repercussions for both the individual who experiences it and for this nation's efforts to control the epidemic. Many witnesses have indicated that addressing discrimination is the first critical step in the nation's response to the epidemic.

HIV-related discrimination is impairing this nation's ability to limit the spread of the epidemic. Crucial to this effort are epidemiological studies to track the epidemic as well as the education, testing, and counseling of those who have been exposed to the virus. Public health officials will not be able to gain the confidence and cooperation of infected individuals or those at high risk for infection if such individuals fear that they will be unable to retain their jobs and their housing, and that they will be unable to obtain the medical and support services they need because of discrimination based on a positive HIV antibody test.

As long as discrimination occurs, and no strong national policy with rapid and effective remedies against discrimination is established, individuals who are infected with HIV will be reluctant to come forward for testing, counseling, and care. This fear of potential discrimination will limit the public's willingness to comply with the collection of epidemiological data and other public health strategies, will undermine our efforts to contain the HIV epidemic, and will leave HIV-infected individuals isolated and alone.

On the other hand, the Commission has also received testimony about situations in which HIV-infected individuals have been treated with compassion and understanding by employers, coworkers, fellow students, and members of their local community. From these contrasting experiences, it is clear that the key to an enlightened and compassionate response is education and the planning and development of HIV programs and policies well in advance of the occurrence of the first case of HIV infection. The Commission believes that every employer, school system, and community should start that education and planning process now.

In general, because HIV is blood-borne and sexually transmitted, there is no need to treat those infected with HIV in a manner different from those not infected in such settings as the workplace, housing, and the schools. In the vast majority of workplace and public settings there is virtually no risk of the direct exposure to body fluids which could result in HIV transmission. Detailed Centers for Disease Control (CDC) guidelines have been issued for dealing with HIV infection in those cases which require special handling, such as health care workers and other workers who might be exposed to blood or those schoolchildren who lack control of their body secretions.

Therefore, discrimination against persons with HIV infection in the workplace setting, or in the areas of housing, schools, and public accommodations, is unwarranted because it has no public health basis. Nor is there any basis to discriminate against those who care for or associate with such individuals.

It is illegal to discriminate against persons with AIDS in those local jurisdictions with AIDS-specific anti-discrimination statutes, in those states which include AIDS as a protected

handicap under their disability anti-discrimination laws, and in programs which receive federal funds. Section 504 of the Rehabilitation Act of 1973 is the federal anti-discrimination statute which prohibits discrimination against otherwise qualified persons with disabilities (including persons subject to a range of AIDS-related discrimination) in any program or activity receiving federal funds.

Nevertheless, complaints of HIV-related discrimination persist and their number is increasing. For example, HIV-related cases handled by the New York City Commission on Human Rights have risen from three in 1983, to more than 300 in 1986, to almost 600 in 1987. Similarly, the Office of Civil Rights which enforces federal disability discrimination law in programs funded by the Department of Health and Human Services reports a rise in complaints related to HIV infection in the past few years. AIDS advocacy groups and civil rights organizations nationwide also are experiencing an increase in HIV-related discrimination cases.

As a witness at the Commission's hearing on discrimination explained, individuals infected with HIV face two fights: the fight against the virus and the fight against discrimination. Just as the HIV-infected must have society's support in their fight against the virus, these individuals must have society's support in their fight against discrimination and must have assurances that policies will be implemented to prevent discrimination from occurring in the future.

One of the primary causes of discriminatory responses to an individual with HIV infection is fear, based on ignorance or misinformation about the transmission of the virus. We cannot afford to let such ignorance and misinformation persist. Each publicized incidence of discrimination, such as the picketing of a school that has admitted a child with HIV infection, perpetuates this ignorance and sows doubts in the minds of those who hear of it. This undermines current and future HIV education programs as well as rational HIV policies.

Furthermore, each act of discrimination, whether publicized or not, diminishes our society's adherence to the principles of justice and equality. Our leaders at all levels—national, state, and local—should speak out against ignorance and injustice, and make clear to the American people that discrimination against persons with HIV infection will not be tolerated.

Just as our society has taken a definitive stand on discrimination against persons with other handicapping conditions and illnesses—such as cerebral palsy, mental retardation, and cancer—society must take a stand on discrimination against persons with HIV infection. The United States has been an international leader in affirming and promoting the civil rights of persons with disabilities. While much remains to be done, as a nation we can take great pride in the progress we have made in embracing persons with disabilities as a part of the mainstream of society. Persons with HIV infection must be clearly and definitively guaranteed their civil rights and be protected against discrimination just as persons with other disabilities are. Such protection enables the HIV-infected person to become a partner with social institutions in limiting further spread of the infection and supporting effective care-giving systems.

Obstacles to Progress

The Commission has identified the following obstacles to progress in combating discrimination against persons with HIV infection:

- There is not a societal standard or national policy statement clearly and unequivocally stating that discrimination against persons with HIV infection is wrong.
- There is no comprehensive, national legislation clearly prohibiting discrimination against persons with HIV infection as a handicapping condition.
- There is a lack of coordinated leadership from our public and private institutions on the issue of discrimination against persons with HIV infection.
- A patchwork of federal, state, and local laws is both confusing and, ultimately, ineffective in preventing discrimination or providing remedies.
- Enforcement of existing anti-discrimination laws is slow and ineffective.
- Education about transmission of the virus and about the laws banning HIV-related discrimination is insufficient. This results in ignorance, misinformation, acts of discrimination, and, in some persons, an irrational fear of association with those who are HIV-infected.

The Commission believes that removing these obstacles and eliminating HIV-related discrimination will require coordinated action by all Americans—by individuals and organiza-

ered under Section 504. The Commission supports the position that Section 504 coverage applies to persons who are HIV positive yet asymptomatic.

Section 504's prohibition against discrimination extends, however, only to federally funded programs and activities. Thus, large segments of the population in the private sector do not fall within its jurisdiction. There is no existing federal anti-discrimination protection for persons with disabilities facing discrimination in the workplace, housing, or public accommodations which do not receive federal funds.

RECOMMENDATIONS

The Commission believes that federal disability anti-discrimination law should be expanded to cover the private as well as the public sector. Specifically, the Commission recommends:

9-4 Comprehensive federal anti-discrimination legislation which prohibits discrimination against persons with disabilities in the public and private sectors, including employment, housing, public accommodations, and participation in government programs, should be enacted. All persons with symptomatic or asymptomatic HIV infection should be clearly included as persons with disabilities who are covered by the anti-discrimination protections of this legislation.

The National Council on the Handicapped, an independent federal agency comprised of 15 members appointed by the President to make recommendations on public policy issues affecting people with disabilities, included a proposal for a comprehensive federal law of this kind in their January 1988 report to the President. Their proposal, the Americans with Disabilities Act of 1988, was recently introduced in the United States Congress. The Commission believes that this type of comprehensive, disability anti-discrimination legislation should serve as a model for federal legislation in this area.

The Commission does not intend for anti-discrimination legislation to invoke affirmative action for persons with HIV infection. In other words, no one would be required to hire an individual with HIV infection based on that status.

The Commission recognizes that particular attention will need to be paid to the impact of such legislation on small employers, as has been done in other civil rights laws. Any disability anti-discrimination law passed should be consistent with, and not go beyond, the reach of existing civil rights laws for other groups such as minorities and women. In carrying out provisions of the new legislation, all persons with disabilities should have access to the same support services as those covered under other comprehensive federal anti-discrimination laws.

The Commission recognizes that passage of more comprehensive disability discrimination legislation by Congress may take time. Therefore, the Commission believes that it is imperative for the federal government to take immediate steps to inform the public regarding existing federal anti-discrimination law and regarding the remedies which are available for those who experience HIV-related discrimination by entities that receive federal financial assistance. Enforcement of existing law must be strengthened.

In 1986, the Department of Justice issued a memorandum which concluded that although federal disability law prohibits discrimination based on the disabling effects of AIDS, discrimination based on fear of contagion was not covered. The absence of any further statement from the Department of Justice has created confusion and uncertainty about its position, particularly since *Arline* rejected the fear of contagion argument. Specifically, the *Arline* decision stated:

> We do not agree with petitioners that, in defining a handicapped individual under Section 504, the contagious effects of a disease can be meaningfully distinguished from the disease's physical effects on a claimant in a case such as this.

To eliminate uncertainty and clarify the applicability of federal disability law to HIV-related conditions, the Commission recommends:

9-5 The Department of Justice, which has been designated to coordinate the enforcement of disability discrimination law for all federal agencies, should issue a follow-up memorandum expressing support for the *Arline* decision and withdrawing its earlier opinion that fear of contagion is not a basis for Section 504 coverage. In addition, the Department of Justice memorandum should take the lead in endorsing lower court rulings by clarifying that persons who are HIV-infected yet asymptomatic, as well as persons with symptomatic HIV infection, are covered by Section 504.

9-6 The Office of Civil Rights within each agency should develop policy guidelines stating that all HIV-infected persons, including those who are asymptomatic, are subject to the jurisdiction of the Office. The agencies should publicize the availability of the services of their Offices of Civil Rights to those who have experienced HIV-related discrimination and should publish their intent to investigate actively all complaints. The agencies should distribute these policy guidelines to all contractors and grantees.

9-7 All agency Offices of Civil Rights should establish a system of aggressive investigation of violations of Section 504 in HIV infection-related cases, including expedited procedures for review of complaints and regular monitoring of those procedures.

9-8 Supplemental funds should be allocated to all agency Offices of Civil Rights to increase staff and resources for the enforcement of Section 504.

State and Local Government Response

In addition to strong federal anti-discrimination legislation, state and local legislation is needed to provide the local administrative procedures and courts as an alternative to federal litigation for enforcement of the rights of the HIV-infected. Local government officials are able to intervene quickly and utilize ongoing relationships in the community for rapid resolution of discrimination complaints. Rapid resolution is needed as the infected individual may well die in the time interval that a typical case is processed.

RECOMMENDATIONS

For state and local governments, the Commission recommends:

9-9 If not now the case, states should amend their disability laws to prohibit discrimination against persons with disabilities, including persons with HIV infection who are asymptomatic or symptomatic, and persons with AIDS, in public and private settings including employment, housing, public accommodations, and governmental services.

9-10 State-sponsored HIV education campaigns should include anti-discrimination components.

9-11 Arbitration, mediation, and accelerated settlement procedures and programs should be developed and utilized to assist in the speedy resolution of HIV-related discrimination complaints. Mediators and arbitrators should be trained to deal with the special circumstances surrounding HIV-related discrimination cases.

Community Response

One of the primary barriers between those infected with HIV and those not infected is the widespread belief that HIV infection is someone else's problem—there is no need to become educated about it. Individuals in large and small communities across the country are discovering that this is not the case, as they have learned to accommodate individuals with HIV infection living in their midst. In those communities which have developed HIV-related policies and guidelines for health care settings, the workplace, and the schools, and had their programs in place before the first case of HIV infection appeared, fears were reduced and individuals with HIV infection have been accepted. In some cases, where community leaders have not educated the community and not developed policies in advance, the result has been discrimination fueled by fear and ignorance, leading to divisiveness in the community and suffering for the family and friends of the infected individual.

To prevent discrimination, the primary tools at the local level are comprehensive, participatory educational programs, advance planning, and preparation. Educational programs about the transmission of the virus, the laws against discrimination, and the reasons for compliance should be developed by employers, school systems, and health care providers. Education should be provided in simple language for the layman and it should come from a person who has the confidence of those being offered the information. Local officials in government, business, public health, schools, and religious and community organizations should assume a leadership role in this effort.

RECOMMENDATIONS

Specifically, the Commission recommends:

9-12 Organizations representing health professionals should adopt a public policy stating that their members have an ethical obligation to treat patients with HIV infection in a non-discriminatory fashion. These organizations should develop education programs for their members

which include education on non-discrimination.

9-13 Religious leaders should take an active role in the anti-discrimination education effort with members of their parish or congregation. In addition, religious institutions should develop outreach programs for individuals in their community with HIV infection and should involve the congregation or parish members in volunteer activities.

9-14 Employers should develop an HIV education program for all employees. Education programs to combat discrimination should emphasize two goals: information about transmission to prevent the further spread of HIV infection and education about legal issues—such as how to ensure confidentiality and prevent discrimination. This approach should be used in all workplace settings.

9-15 Employers should have each department or office review and revise policies and procedures in light of medical and legal information related to HIV infection, and, where applicable, interact with the community to further public education about HIV infection. This last step may be most applicable to the public sector.

HIV and the Schools

The Commission has heard testimony about the experiences, both good and bad, of a number of HIV-infected schoolchildren. Important lessons can be learned from those model communities which have policies in place regarding HIV infection in advance of the first case, and have been able to accept the HIV-infected individual in their schools without fear and discrimination. In some school districts, a well-coordinated system of educational programs has produced an enhanced sense of community pride and satisfaction from having worked together to fashion an enlightened, rational policy on HIV infection for the schools. The Commission has been impressed with the courage and compassion which school and public health officials have displayed in planning and preparing for a positive outcome. A number of common principles emerge from the experiences of these model communities. The recommendations in this section should be implemented in conjunction with the school-based education recommendations in the education chapter of this report.

RECOMMENDATIONS

Specifically, the Commission recommends:

9-16 **Each school system should establish a board-developed policy, with accompanying guidelines, for dealing with an individual with HIV infection in the school *before* it is confronted with the first case. The Centers for Disease Control or other public health guidelines should be utilized but the policy should be flexible and allow each case to be dealt with on an individual basis, based on medical facts.**

9-17 **Educational materials about the transmission of the disease and the anti-discrimination laws should be developed and disseminated and, where necessary, explained fully by legal and medical experts. Age-appropriate materials on these topics should be developed for students.**

9-18 **School officials should identify a decision-making structure to review all HIV policies and procedures and to deal with each individual case. Legal, medical, and public health consultants from the community should be involved.**

9-19 **Open public meetings should be scheduled, featuring school officials, medical and legal consultants, and community officials, to discuss the board's policies and the rationale for its decisions. School officials must be prepared to educate the entire community, including parents, public officials, clergy, pediatricians, students, and media representatives, about the reasons for the board's decisions. Support and counseling should be offered to employees, parents, or children who are troubled by the board's decision.**

9-20 **In any communications about specific HIV-infected individuals, the confidentiality of the schoolchild or staff member should be maintained to minimize the opportunity for discriminatory behavior.**

9-21 **A team should be formed with responsibility for reviewing all aspects of the case on an ongoing basis and monitoring medical or legal developments that might affect school district decisions.**

9-22 **School officials should actively participate in community education efforts so that they support acceptance of HIV-infected individuals in the schools in a non-discriminatory manner.**

9-23 Educational associations should disseminate information to their members on the policies and procedures used by those communities which have accepted an HIV-infected individual in their schools without fear and discrimination.

HIV and Health Care Settings

The Commission has heard testimony that some hospitals and some health care workers in hospitals have been unwilling to care for HIV-infected persons or have provided inappropriate care because of fear. Steps must be taken to eradicate this fear because these institutions are critical sources of care and are leaders in community attitudes.

Over the next five to 10 years, even more community-based health care facilities, such as group homes, nursing homes, hospices, and mental health facilities, will be needed in many communities to care for patients with HIV infection. Long-range planning for these facilities must be undertaken now in order to avoid fearful and discriminatory reactions from the community.

RECOMMENDATIONS

Specifically, the Commission recommends:

9-24 Hospitals and providers of health care to HIV-infected patients should establish a mandatory education program for all hospital employees, including an anti-discrimination component and professional, confidential counseling for all employees. Health care workers need to be reminded about the social context of HIV infection and the need for confidentiality and protection of private medical information.

9-25 Health care providers dealing with patients with HIV should make available a patient care advocate, if one does not yet exist, to regularly contact individuals with HIV, so that patients could confidentially report treatment problems. Health care professionals who have repeated, substantiated complaints made against them, and who resist education, should be formally reprimanded and placed on probation. In general, the Commission feels that remedies such as this should be short-term in nature and could gradually be phased out.

9-26 State and local governments and health care providers should develop long-range plans now to anticipate the need for community-based health care facilities, and should develop a strategy to educate community members to accept facilities and prevent discriminatory responses.

9-27 Those working to educate a community in preparation for acceptance of patients with HIV infection should develop a strategy to prevent discrimination. Some important points to include are: allowing time for education; knowing the legal issues involved; mobilizing political, community, and religious leaders for support; bringing in legal and public health experts; meeting with people who have concerns and listening to their concerns.

Senator WEICKER. Thank you very much. Before I proceed to questions with Admiral Watkins, those that are in wheelchairs, I would like to get as many as possible up here. This is a tremendous statement by the entire community. I think we have the entire community right in this hearing room. [Applause.]

If you want to just come forward, that will enable more that are in the back to be in a comfortable position, as comfortable as possible during such as this. I think it is terrific that you are all here.

Admiral Watkins, one question that I have is that the words that I hear all over the place are well, we like that Presidential Commission report, but we do not like the antidiscrimination aspect of it. We can take the report, but we do not want that antidiscrimination aspect of it. Have you heard this, also?

Mr. WATKINS. Yes, I have, Senator Weicker.

Senator WEICKER. That is what we are contending with here. That is why it is such a privilege to have you here, because it is not just a question of discrimination against AIDS, which is the most recent discrimination, but the decades old discrimination that so many have suffered with here in this room.

I could not help but think, with all the concern for the ritual of the Pledge of Allegiance, how many people think about those last words, indivisible with liberty and justice for all? And justice for all. That is what the Americans with Disabilities Act is all about, justice for all.

So instead of being a ritual, let us make it a reality. [Applause.]

Congressman Owens.

Mr. OWENS. I have no questions, Admiral, but since you first came to my office for a brief introductory session, I have been quite pleased with the way you have moved in this city and the Nation as a whole, to establish a certain kind of calm and a return to reason on this whole issue. I want to congratulate you on a magnificent job that you have done.

We recently passed legislation related to AIDS on the House level. It may have some shortcomings, but I think that the positive, upbeat nature of that legislation is due primarily to the fact that you established an environment in which we could work; an environment where anybody who was not a reasonable person was isolated. In several votes that we took, we isolated those unreasonable and hysterical people.

I think you are to be congratulated for helping to establish that atmosphere which made possible the passing of the current legislation.

Mr. WATKINS. Thank you, Congressman Owens.

Senator WEICKER. Thank you, Congressman. Congressman Jeffords.

Mr. JEFFORDS. Admiral, it is good to see you again. I deeply appreciate the earlier conversation we had on the dynamics of the work force, which put me a little ahead of the curve in understanding, and I appreciate that, and your dedication to public service after work as a tremendous member of our naval establishment.

Congressman Waxman introduced a bill earlier this year, and I joined him on that, on counseling and testing and discrimination. I just want to alert everyone that all we could get out was counseling and testing. The problems of discrimination, the inability to ar-

ticulate anything which we could get past the House on the floor debate, many of these things indicate that that is going to be the most serious problem that we face when we get to ADA, is how we can work in to ensure the rights of those that have AIDS.

I appreciate very much your very excellent testimony on that. I want to alert my colleagues that it is going to be no easy task and hopefully we will find a rational way to deal with this. Your statements are going to be so helpful in that regard, and I thank you for that.

Mr. WATKINS. Thank you, Mr. Jeffords.

Senator WEICKER. There will be further questions for response to the record, more particularly those of the Chairman, Senator Harkin, who I might add, without his help, without his hard driving on this issue, we would not be here today. He is a magnificent chairman.

He has specific questions for you, Admiral Watkins, which I would appreciate your responding for the record.

Mr. WATKINS. Thank you, Mr. Chairman.

Senator WEICKER. Thank you very, very much for all you have done for the Nation. Thank you. [Applause.]

Now we have a panel of witnesses, Mary Linden from Morton Grove, IL; Dan Piper from Ankeny, IA, accompanied by his mother, Sylvia; Jade Calegory from Corona Del Mar, CA; and Lakisha Griffin, from Talladega, AL.

I think that we will go in order of how I called the witnesses. Please be relaxed. You are among friends, both in front and behind you. I think we want, and America wants, to hear your story. Please proceed. Mary, you are the first witness.

STATEMENTS OF MARY LINDEN, MORTON GROVE, IL; DAN PIPER, ANKENY, IA, ACCOMPANIED BY SYLVIA PIPER, ANKENY, IA; JADE CALEGORY, CORONA DEL MAR, CA; AND LAKISHA GRIFFIN, ALABAMA SCHOOL FOR THE BLIND, TALLADEGA, AL

Ms. LINDEN. I am deeply honored to be asked to speak before the committee. The Americans with Disabilities Act is the greatest act ever passed in the 20th century, I believe, sir.

You see before you a woman who, until 1987, did not even believe that she could help with anything or even change her own outlook. My father had always chosen my path, before his death in 1964. There was no accessible housing for him to use for me, so he put both my mother and myself in a retirement home. Upon her death, I moved to their adjacent nursing home. His access still provides for my care.

His words, "As long as I am paying for your keep, you take my orders" still go through my mind every time new challenges offer themselves.

At 7 years of age, I entered the Jesse Spalding School for the Crippled, a venerable institution of the Chicago school system, a segregated institution of the Chicago school system which is still in operation today. I was there and they never even taught me to write. I learned to print after, I taught myself to print after I finished high school, with a class rank of 9 out of a class of 45, in 1951.

No career plans or educational plans were made for me because the school and my parents thought I was too disabled to compete. I have been after my education for 20 years. I got most of it after transportation became accessible, after a fashion that is. It is not. I have got 61 hours of credit.

But we cannot get from Morton Grove to Northeastern University because the two transportation organizations will not unite, so discrimination still exists. I want my 4 year degree so that I can go and have Executive Director Jim DeJong of the Coalition for Citizens with Disabilities [CCDI] in Illinois, for the most precious thing in the world, a paying job.

I beg of you to pass this act, so that other children will not have to go through what I went through, will not be stared at, will not be limited as to how many times they can see things. It will not be once every 6 months that we get to go shopping. If we pass it, we can go stare at the glass windows any time we want to.

The youngsters here will have much more chance than I did, but they should have a chance to work and to contribute as much as they can.

I thank you.

[The prepared statement of Ms. Linden follows:]

Testimony of Mary Ella Linden
before the
Senate SubCommittee on the Handicapped
September 27, 1988

on the
Americans with Disabilities Act (ADA)

Ladies and Gentlemen. I am deeply honored to speak before you in support of the Americans with Disabilities Act of 1988. This legislation is very much needed, not only for the provisions it contains, but also for the principle it embodies: freedom from discrimination on the basis of a disability which will give us the opportunity to participate in American society as equal members, as fully human beings.

When the Act becomes law, people with disabilities will have several accepted, legal, legitimate channels through which to air their needs and grievances. There will no longer be a necessity for those demonstrations which the noninvolved world may find so distasteful. Freer access to job opportunities will allow people with disabilities to be seen as human beings with the same needs, drives, and desires as the nonimpaired in the workplace. Perhaps people will learn not to stare so hard, too.

You see before you a woman who did not learn until August 10, 1987, that she had the strength to help with anything or to change her own outlook. My father had always chosen my path until his death in 1964. There was no alternative housing situation for my father to use for me after his death, but a nursing home. And so, at the age of 34, I was placed in a retirement home with my mother upon his death. And upon her death I was

placed in the adjacent nursing home. His estate still provides for my care. His words, "As long as I'm paying the bills, you take my orders", have echoed through my mind whenever new challenges have offered themselves.

I was born in Chicago in 1930, attended segregated public schools, and graduated from high school in 1950 with a class rank of ninth out of forty five. But no plans were made for me for a career or for higher education, because I was considered too crippled to compete -- by both the school and my parents. In fact, the school never even took the time to teach me to write! I taught myself to print in 1951 -- after I had graduated from the public school system. However, I can still neither read nor write in cursive. It is very embarrassing to have to ask someone to read a letter or a professor's comments. The effects of the school's failure to teach me are still evident today. Fortunately I had been taught to use the typewriter by a very creative and resourceful aunt. This skill has enabled me to obtain sixty-one hours of college credit. But I am getting ahead of myself.

Both of my parents were children of Swedish immigrants -- eager to succeed and to be "American". They believed the doctors who made surgical adjustments on my leg and heel chords in successive operations between the ages of 18 months and three years. I spent most of that time in the hospital. When I was six years old, a specialist told my parents that the doctors had cut too much and that I would never be able to walk. Nowadays a malpractice suit might have been brought against the surgeons or even the doctor who delivered me, but not in the 1950s and certainly not by my parents!

When I was seven years old I entered the Jesse Spalding School for the Crippled, a venerable institution even then of the Chicago public school system which is still in existence today. I always attended segregated

schools, rode to and from school in a cab (paid for by the school system) and had little or none of the usual childhood activities, especially those involving socialization. As an only child, I had no sibling to play with, to interact with, to learn from, or just to be with. The few school activities that did occur, my parents did not encourage me to attend. And shopping expeditions -- which all children love -- were not often possible. Twice a year I went to the dentist, went shopping, and to a restaurant. Otherwise I saw little of the 'outside world' and they saw little of me, as was the custom. The accessibility of public accommodations, especially in public meeting places, will open the doors for all people with disabilities and the general public will finally begin to see us as we are and learn not to stare, cringe, or otherwise react to our mere presence among them. But, back to school, the teachers in the sight saving class were unable to show a pupil with one usable hand how to form the letters of the alphabet. The embarrassment of trying to write on the blackboard in front of the other students who could write is something I still dread to remember. After the teachers had declared me unable to acquire writing skills, my patient aunt taught me how to use a typewriter during my tenth summer. A lack of training in activities of daily living skills meant that I had to learn them on my own.

The years from my graduation from high school in 1951 until 1987 are one big blur of discrimination. In 1951 I studied history by a correspondence course. Each of the two courses took two years to finish because I had not learned correct study habits in the public school system. Over those many years I have managed to acquire sixty-one hours of college credit, much of it when accessible public transportation finally became available through the Rail Corridor Access System. The regional transit authority provides a lift equipped bus that will travel along the same route

as the suburban train system However, at this time I am unable to enroll in a four year college and complete my degree because of the inability of the transit systems to cooperate within the same regional authority! I want to complete my degree so that I can go to Director Jim DeJong of the Coalition of Citizens with Disabilities in Illinois and ask him for the most precious thing in the world, a paying job! More than anything else I want to devote the rest of my life to the Coalition and its work on behalf of people with disabilities

I beg you to pass this bill Let each of us make as tangible a contribution to American society as we can The ADA will make things possible for today's children with disabilities that I never even dreamed were possible for me It is deeply needed for many reasons, chief among these is that it will show people with disabilities, as well as the whole community, that we are entitled to become full human beings, participating in our community No longer will a person need to grow up without knowing how to write because teachers did not take the time to show them how to form their letters. The increased transportation services demanded under ADA will make possible much greater integration of the whole community There will be no cases like mine where the disability alone determines where we live and what we do God only knows how many contributions society has missed because there were no provisions for the disabled to move about freely and to determine their own lives. I pray that the Americans with Disabilities Act will be passed as soon as possible so that we may become another melted minority Thank you very much for your patience and for this opportunity to speak today

Senator WEICKER. Mary, I thank you. That is courage and optimism. Just great. Just great.

Our next witness is Jade Calegory from Corona Del Mar. Jade, nice to have you with us.

Mr. CALEGORY. Thanks.

Hi. My name is Jade Calegory. I am 12 years old and I go to Corona Del Mar High School, CDM for short, in California. I am in the seventh grade and I just started this new school last week. I have been mainstreamed since the second grade.

You see, I was born with spina bifida and I have had lots of operations. I started kindergarten on a gurney and had to go to a separate school. But now that I am OK enough, I go to a regular school. So I wanted to thank you all for passing that law, 94-142, so I can go to a school with all of my friends.

CDM is my third regular school. When I was a little kid, I got called names and was teased a lot because of my disability. I know now that it was just because those kids did not understand, but the kids at my new school are smart enough to know that I am not different because of my disability.

But still, sometimes when I meet new people, I wish they would talk to me first, before they ask what is wrong with me, or what happened to me. It makes me feel like my wheelchair is more important than I am.

Anyway, I was born in 1976, 200 years after the Constitution promised freedom and independence for all of us, no matter what. Thanks to you, and the people who sat in those seats before you, I am lucky to grow up in a world that is different than when you folks were kids. Thanks to you, people are not separated as much by their age, religion, color of their skin, disability, whether they are men or women, stuff like that. Things are getting better, but it sure does take a long time.

Even though some things have gotten better, there is more that can and should be done. It is kind of like my grades in school. They are good, but I know that if I work harder, they can get even better. [Applause.]

I guess that is why I am here today, not because America's 36 million citizens are physically challenged, but because we are also politically challenged.

Although there are over 4.5 million other kids with disabilities, there are only a few of us who have the chance to work and pay taxes. I guess I am luckier than a lot of other kids with disabilities, I work as an actor.

My movie, "Mac and Me" is out right now. Maybe you have seen it. I like it because it shows that kids with disabilities are not any different and can do the same things as other kids without disabilities, if given a chance. It is the first movie to star a kid with a disability, and it is a great family film full of adventures. I even got to do some of my own stunts.

I also think "Mac and Me" is terrific because it shows a kid with a disability giving help instead of just getting help, and nobody tries to cure me, or take away my disability by the end of the movie. [Applause.]

That gives people the idea that it is okay to be disabled and just be accepted for who you are. I hope there will be more non-disabled

movie roles for disabled actors. We could be anybody, because after all we are, in real life.

R.J. Louis, who produced "Mac and Me", auditioned only disabled kids for the role. He knew disabled kids could be good actors. He gave us a chance.

At least one-half million dollars from "Mac and Me" is going to the Ronald McDonald Children's Charities to help kids with cancer. McDonald's is a good friend to the disability community. McJobs helps mentally retarded people train for a job. McDonald's has made seven TV commercials with disabled actors and was the first to have braille menus for blind customers.

McDonald's is a great company. They are a good example of how a big company should help people with disabilities become more independent. But if other companies cannot learn from McDonald's, then this American With Disabilities Act can teach them that 36 million Americans with disabilities are an important part of this world, too.

Orion Pictures wanted to advertise those theaters showing "Mac and Me" that were accessible to people using wheelchairs, but the theater owners would not let them. Here is this great family movie and a lot of people from the disability community do not even know if they can get into the theater to see it. I do not think that is fair.

I learned in my school that you are the Congress and that you have the power and the responsibility to change the laws that make life better for everyone. TV and movies have the power and responsibility to change the attitudes that also makes life better for those of us with disabilities. Without new laws like this one, and new attitudes, 36 million of America's citizens will be stuck without equal rights, and that is not fair.

Aside from acting, I like racing in my wheelchair. I have won 5K and 10K races. After my mom and I go jogging on the beach back in California, we sometimes take the bus back home, or at least we try to. Most of the buses do not have lifts on them. Some of the drivers are very rude and get mad if I want to take the bus. Can you believe that?

I work and part of my taxes pay for public buses and then they get mad just because I am using a wheelchair. I do not think that is fair or right. I am important, too.

If I really have to, I could get out of my wheelchair and climb up the stairs, but I do not think I should have to. Maybe another person using a wheelchair is trying to go to work or school and they should not have to crawl up the stairs and get dirty. Or maybe they cannot even get out of their wheelchair by themselves.

Anyway, I was thinking, if all of the buses had lifts on them, it would be better for all of us. It is hard for people to feel good about themselves if they have to crawl up the stairs of a bus, or if the driver passes by without stopping. They could be late to work or school and that is not even their fault.

I guess my teacher was right about history repeating itself. I learned in school that black people had problems with buses, too. They had to sit in the back of the bus, but some of us with disabilities cannot even get on the bus at all. Black people had to use sep-

arate drinking fountains and those of us using wheelchairs cannot even reach some drinking fountains. We get thirsty, too.

Black people had to go to separate theaters, schools, restaurants, and some of us have to, also. That is not because we want to, but because we cannot get in. That means that we do not have a choice. I think that everybody should be able to have choices, do you not?

In "Mac and Me", my family moves from Chicago to Los Angeles, and as we talk about the new house, we talk about lowered counters, no stairs, and wide hallways. I am excited that Congress has already dealt with things like accessible housing in passing the Fair Housing Act. That is neat. Thanks.

Because of "Mac and Me", I have been traveling around the country and I noticed that Chicago and New York are harder to get around. There are not as many cuts in the curbs, and the bathrooms in the hotels are not made for those of us using wheelchairs. I hope that you will help us make this world more open to people with disabilities.

You can help us make that happen. We have a right to have a world where people do not build houses and schools with steps and no ramps, buses without lifts, curbs without cuts, TV and movies without captions. I am not old enough to vote yet, but if I were, I would vote for this bill. I am sure that some of the people from your States and hometowns who voted for you were disabled. They would vote for this bill, too.

This is our future and just like Martin Luther King 25 years ago, we have a dream, too. The Americans with Disabilities Act of 1988 can help to make that dream a reality. Thanks for listening and helping us with our political challenge to make this world a better place to live for all of us with disabilities. [Applause.]

Senator HARKIN [presiding]. Thank you very much.

Bobby Silverstein, who a lot of you know here, our staff director, saw the movie last weekend. I have two young kids and this weekend I am home, so I get to go see it this weekend. Now I really want to see it.

I apologize to many of you for having been gone for a short period of time, especially those who have testified. As so often happens around here, things conflict. I am on the Appropriations Committee and we had to wrap up a certain item that I was involved in, so I apologize for having been gone for a small amount of time.

I also want to do two more things. I want to recognize a group of individuals, citizens, who have come down here from New Jersey. I understand they all got on the train this morning and came down here, a group of about 40 or more citizens, some of whom use chairs. Over 100, 170.

Raise your hands. All of those of you who came down on that train this morning. Look at that.

[A show of hands.] [Applause.]

I welcome you here and we really thank you for taking the time and the energy to come down to this important hearing.

Second, I do not know what your time element is right here, but I want to publicly say thank you to Senator Weicker for his many years of championing the cause of many Americans, not just those with disabilities, but those who perhaps find themselves at a disad-

vantage one way or another, and fighting for the underdog. I know of no more eloquent nor determined individual in the entire Congress than Senator Weicker, in what I call fighting for the underdog and not the topdog.

I just want to publicly say thank you for your many years of service and thank you for chairing this subcommittee before I took over, and also for you and your staff's work in really making this subcommittee work well and getting this legislation through. He really deserves our thanks. [Applause.]

Now I would like to turn to two individuals that I hold in very high esteem, Dan Piper and his mother, Sylvia, from Ankeny, IA.

I want you to know, Dan, that I often use you as an example when I go around the country, talking about what early intervention can do. Dan, to me, represents a prime example of why we must push very hard on early intervention. I think you will shortly see what I mean.

We welcome you here, Dan, and welcome your mother, Sylvia. Please proceed as you so desire.

Ms. PIPER. OK. Dan, how old are you?

Mr. PIPER. I am 17.

Ms. PIPER. What is your address?

Mr. PIPER. 406 N.E. Sherman Drive, Ankeny, Iowa.

Ms. PIPER. Dan, you attend Ankeny High School. Do you have friends at Ankeny High School?

Mr. PIPER. Yes. I have Jeff Bachman, Cory Heagle, Jayme Martin, Chris Piper, Aaron Baugher, Melissa Berry and Melissa Berry is a nice girl.

Ms. PIPER. That is Dan's girlfriend and he is also mentioning his brother. It is interesting to note, he considers him a friend today.

Dan, have you had any jobs?

Mr. PIPER. Yes. I work at a job. I work at Parkview Junior High.

Ms. PIPER. Where else have you worked?

Mr. PIPER. I worked at Walmart, Hardee's, Dillows other stuff.

Ms. PIPER. When you are an adult, and you are not going to school anymore, do you want to work?

Mr. PIPER. Yes.

Ms. PIPER. Where would you like to work when you are an adult, and earn some money?

Mr. PIPER. I want to earn money in a video store.

Ms. PIPER. Dan, where would you like to live?

Mr. PIPER. I want to live in an apartment, number 3999.

Ms. PIPER. Where would the apartment be?

Mr. PIPER. Des Moines.

Ms. PIPER. That is interesting. Dan's father and I are kind of gearing his adult life in Ankeny, but he is obviously choosing otherwise.

I would like to share with you and do appreciate the opportunity. At the time of Dan's birth in 1979, his father and I were advised by the attending physician and pediatrician to place Dan in an institution. It was a very difficult time for his father and I and the grief overrode logical decision making.

Dan's development was described as hopeless. His dad and I rejected this recommendation, and Dan has been living at home with his family since his birth. I might mention here that his birthday is

Sunday, and that is a really important moment to him. He will be turning 18, age of majority.

Dan received services through the Child Study Center at 6 months of age. Our area education agency provided an in-home teacher until age 4, when Dan was enrolled in a segregated preschool program in Des Moines. His integrated educational experience began at 8 years of age until the present.

Dan, despite an IQ of 39, is a typical teenager who has just entered his fourth year of quality integrated special education in the Ankeny School District, which is his home community. This was only achieved through intense advocacy efforts by his father and me, coupled with representatives from ARC/Iowa, the Association for Retarded Citizens.

In Ankeny, Dan finally has had the opportunity to form friendships with his nondisabled peers who live in his community. He serves as manager for the football team. He was elected as his regular ed homeroom representative for the Pep Club. He attends all school and community functions. Dan participates in music, art, physical education, industrial arts, and home economics in regular ed classrooms with his nondisabled peers.

Since Dan is now rapidly approaching the end of his school years, the major thrust of his educational experience is onsite vocational training within cooperative businesses in Ankeny.

Positive relationships with regular education high school students resulted in Dan's favorite activity, The Greasers, a lip sync group of high school students featuring Dan as lead performer. The group makes appearances at various functions within the Des Moines area. This is an ideal opportunity for a young man who has speech problems to express himself with the arts.

Dan, a young man with Down Syndrome, is considered medically fragile. He is dependent upon insulin and a rigid diet to respond to his diabetic condition. Dan has learned to administer his own injections in spite of the doubts held by the adults in his life, and his parents are included as doubters.

Transition into adulthood holds many fears for Dan's father, his brothers Larry and Chris, and me. Dan can work and can live independently in the community with services, but how many doors will be closed to employment and community living when his parents are no longer around to break down those barriers?

Our family has served as effective advocates for Dan. Many children, with whom I have contact, do not have the luxury of consistent support. The reality is that, while our advocacy has proven successful, we will soon face the private sector where there are no assurances.

We have invested in Dan's future. The State of Iowa has invested in Dan's future. And the Ankeny Public School District has made an investment in Dan's future. We fear that he will be denied employment based on disability rather than capability. He has already encountered discrimination with employment.

Dan indicates that he chooses to live in an apartment, of course in Des Moines as opposed to our choice in Ankeny. Will the landlord decide, because Dan has mental retardation, that he is incapable of independent living? Will he be denied access to transporta-

tion? Will restaurants refuse service? Will hotels refuse accommodations?

Senators and Representatives, are we going to allow this investment of time, energy and dollars, not to mention Dan's ability and quality of life, to cease when he reaches age 21? Over a decade ago, the U.S. Congress enacted Public Law 94-142, which guaranteed Dan the right to special education, and 504 to address disabilities in the public sector. It is now time to expand handicapped antidiscrimination to the private sector so that Dan's and our visions for his adult life and the lives of many others can finally become a reality.

We implore you to enact the Americans With Disabilities Act as quickly as possible. Thank you. [Applause.]

Senator HARKIN. We are going to hold the questions until we finish the panel, but I just say that I saw Dan this summer at the fair grounds. Jade, you better look out, he is coming.

Our last witness is Lakisha Griffin from the Alabama School for the Blind in Talladega, AL. Lakisha will describe her background. She's had no schooling until recently. Her positive experience at her current school, where she is an A student, and her hopes for the future.

Lakisha, I hope I pronounced your first name correctly. We welcome you here and you are among friends. Please proceed to tell us about your experiences and what you would like us to know about this bill.

Ms. GRIFFIN. Good morning, Mr. Chairman. My name is Lakisha Griffin from Lafayette, AL. I am 14 years old and a seventh grader at the Alabama School for the Deaf and Blind in Talladega, AL. With me today is Ms. Dot Nelson, who is a house parent at my school.

I am glad to talk with you today regarding the need for the Americans with Disabilities Act. I understand that this proposed law would protect blind and other disabled people from being treated badly because of our handicap. Discrimination is a big word, but I can tell you that it is real, and I hope Congress will do something about it.

I am the youngest of six children. Until 2 years ago, I was educated at home by my two older sisters. Lafayette is a small rural town in Alabama, and my family did not know much about opportunities for blind people like me. All of my friends at home were sighted. Sometimes the other kids would not want to play with me, and sometimes even their parents acted sort of funny toward me.

I am not sure why this happened, except that many people sometimes do not like people who are different.

My life changed a lot in 1986, when I enrolled at the Alabama School for the Deaf and Blind in Talladega. I made many new friends, both blind and sighted, and I have been on both the A and B honor rolls. I also learned braille at the Alabama School, and that has opened up a new world of knowledge for me. I also like math and English.

When I grow up, I want to go to college to become a teacher. I want to teach braille to other blind people, since the knowledge of braille has been so useful to me.

I know that I can become a braille teacher if I study hard. My parents have worked hard in the textile mill, and I know that I must also work hard to get ahead in life. I hope to be the first person in my family to go to college. I am worried, however, that people will treat me differently because I am blind, black, and female. Some people will think that I cannot be a teacher, but I know I can.

I do not need sympathy. I do not need prejudice. I do need a fair chance to get a job and live independently. Discrimination against blind and other disabled people must be eliminated, and the Americans With Disabilities Act will help that happen. People pay attention when it is the law.

Please pass the Americans with Disabilities Act now so that I and other young people can look forward to a fair chance tomorrow.

Thank you. [Applause.]

Senator HARKIN. I think for the benefit of those who are sitting back there in the back, Lakisha went through that whole thing from her memory. That is really brilliant.

Well, you are just all outstanding. What can I say? You are tremendously outstanding, every one of you.

I would recognize, if you want to, Senator Weicker for any questions or comments you might have for the panel.

Senator WEICKER. I have no questions at all. I cannot say anything that will better express to America what needs to be done and what each of our panelists has stated. I am so proud of you. I really am.

Senator HARKIN. Congressman Owens.

Mr. OWENS. I have no questions. I want to just congratulate and thank the witnesses. Your being here will help us a great deal in the passage of this legislation. Thank you very much.

Senator HARKIN. Congressman Jeffords.

Mr. JEFFORDS. I just have one question. One of the most controversial aspects of 94-142 was the mainstreaming aspect. I wondered if you could give us some reflections on the reaction to the mainstreaming and whether it has improved, from your observations, as far as the acceptability in the schools, since the initiation of the 94-142 from your own history? Jade.

Mr. CALEGORY. You mean, like is it easy to get into the school?

Mr. JEFFORDS. How are the young people reacting, perhaps from your observations not only to yourself, but other disabled that might have come into your school since the time you started?

Mr. CALEGORY. How did the young people react to me?

Mr. JEFFORDS. Yes, and others that you have observed? And has it improved over the course of time?

Mr. CALEGORY. In junior high and in my new school, they do not treat me different or anything. They just treat me like I am one of them.

Mr. JEFFORDS. Did you observe any change in the other schools that you were in, over the course of time, or were you still kind of treated different?

Mr. CALEGORY. Any other of my schools, was I treated differently?

Mr. JEFFORDS. Yes.

Mr. CALEGORY. I think so. I was a little bit teased, like I said in my speech, that I was teased because of my disability and just stuff like that, in some of my elementary schools. But the teachers were good about it, and stuff like that. It was just the kids did not understand.

I am with the Easter Seals now and I think what we are trying to do is educate them so they will not tease kids with disabilities, so they will not tease them anymore, so they know what is going on and they can make friends with them.

Mr. JEFFORDS. Thank you.

Senator HARKIN. Thank you. I just have a couple of questions, maybe just to further elaborate on a couple of things, and why this bill is so necessary.

Mary, I am sorry I missed your testimony. However, I have read it. You have really had a rough time. What I would like to ask you is you are now 58 years young?

Ms. LINDEN. Yes, I just turned.

Senator HARKIN. How would your life be different today?

Ms. LINDEN. I think I would be a 30-year veteran of the Chicago school system, or one from the suburbs, because my family, my mother, my father and all my aunts, were teachers. Of course, you follow in your family's profession. By now I would be worried about my retirement.

I think I would have been in one of the teacher's union because I love politics, but I do not know. That is about it.

If the transportation were better, I would right now be too busy to come here because I would be working for my degree at Northeastern, because I want to go up and get my job. And Mr. DeJong needs a fully educated woman, not a half one. That is where I would be right now.

Senator HARKIN. So I guess, Mary, what you are saying is that not only will future generations benefit from this bill, but you will, also?

Ms. LINDEN. Oh, yes, sir. The day the bill is passed, the very day that you gentlemen have fixed it up so they can use it, my attorney will put a lawsuit through the Federal courts to sue the RTA and the CTA for whatever I have to.

Senator HARKIN. I like your attitude.

Ms. LINDEN. I will get my education, I swear. I would intend to sue them, because there is no reason for this. They have a transit authority and it provides provisions for handicapped people in the city of Chicago and the suburbs, but there is no way in the world that we can get into the city of Chicago or out of it.

And would you believe we have to be home at seven o'clock at night? My gosh, the shows do not even start until 8:30. [Applause.]

Senator HARKIN. Mary, I just had a letter here.

Mr. Chairman, I hope you will express my deep regret for missing the hearing this morning. I am particularly sorry not to be able to welcome Mary Linden, the witness from Illinois. I had the opportunity to meet her yesterday, and I know the committee will benefit from her testimony.

The subject of this hearing is important, not just for Americans with disabilities, but to all Americans. I look forward to reading the testimony of all the witnesses. Thank you very much, Senator Paul Simon from Illinois.

He could not be here, but you saw him yesterday, right?

Ms. LINDEN. Yes, we did and I thank him very, very much.

Senator HARKIN. Jade, do you see the day coming when you will get a role that will be advertised as child actor and not as child actor with disability?

Mr. CALEGORY. Right now my mom had my agent, if she got information for a part for someone with blue eyes or someone to play basketball or something, that she would send me out for it. So right now I am going out for any part that comes out, whether it is for someone with blue eyes, or something like that.

Senator HARKIN. I am going to see that movie this weekend. It is down in our neighborhood and I am going to go see it. "Mac and Me."

Lakisha, I was very moved by your testimony and by what you have had to overcome and what you are overcoming. I have all the confidence in the world that you are going to be the first person in your family to go to college, and that you will indeed be a braille teacher. We know you are going to do it, do we not? [Applause.]

Is this your first trip to Washington?

Ms. GRIFFIN. Yes, it is.

Senator HARKIN. I want you to know that within the last year, we have prevailed upon the Sergeant of Arms and we now have braille maps of the entire Capitol and indeed of all of the downtown monuments and surrounding area. Have you gotten those yet?

Ms. GRIFFIN. No, I have not.

Senator HARKIN. As soon as you get done here, how about getting a set of those, OK?

Ms. GRIFFIN. OK.

Senator HARKIN. I am sure that you can get taken around the Capitol and make sure that you take in everything that you can while you are here, OK?

Ms. GRIFFIN. OK.

Senator HARKIN. We have those for anyone else here who needs them, we have braille maps now of the entire Capitol and of all the downtown monuments and the mall. If you have any problems getting them, you come see me or see one of my staff. I will make sure you get them.

Dan Piper, like I said, Dan, I use you a lot in my speeches around the country. You are getting to be pretty famous, Dan Piper from Ankeny, IA. I just have to tell you, you are not only a source of pride and joy to your parents, but a unique sense of pride and joy to me and to a lot of people.

The State of Iowa has had an early intervention program—I hope you do not mind if I be a little chauvinistic here—since 1975, I think. Since the mid-1970's anyway. We have got a good support group in Iowa. This is a great example of what can be done with early intervention.

Dan, I know from your mother, and also from your own testimony, that you are going to be 18 pretty soon and you are thinking of moving away. Are you not kind of afraid that might break your mother's heart, moving away from Ankeny?

Mr. PIPER. Oh, no. Just me and my dad is.

Ms. PIPER. I did not know he was taking his father with him.

Senator HARKIN. At least you will invite her to come visit you, right?

Mr. PIPER. Yes, and my girlfriend.

Senator HARKIN. I will not get into that, all right?

I just want you to know I am the father of two young people, and I am not looking forward to the day when they leave home either, so I know how your mother feels.

Dan, your hopes for the future are real hopes, and I know that you can accomplish a lot. Let me ask your mother a question.

Mr. PIPER. All right, go ahead.

Senator HARKIN. Is that OK?

Mr. PIPER. Sure.

Senator HARKIN. Ms. Piper, do you agree with Ms. Parrino, when she says that the Americans With Disabilities Act should be looked at as bringing about cost savings to our Nation, rather than additional costs?

Ms. PIPER. Definitely. In our circumstances, we certainly have spent a lot of time and energy, as I stated, in seeing to it that Dan is appropriately trained to be a tax payer rather than a tax recipient. However, with discrimination, we are looking at a future that may very well hold nothing more than sheltered employment for him, which is certainly an opportunity for some people.

However, he has a desperate need for growth and is capable. Our concern is that he will be sitting at home, on our living room couch, watching television for the rest of his life. That is not acceptable, with all of the money that has been poured into his education. There is no reason he cannot be a tax payer.

Senator HARKIN. And it is not acceptable with—look at him. My gosh, look how good he is. Danny, you can do a lot of things.

Mr. PIPER. That is right.

Senator HARKIN. You sure can. We are going to make sure that you are able to do those things, too. You are a great source of pride.

Is this your first trip to Washington? This is your first time here, is it not?

Mr. PIPER. Yes.

Senator HARKIN. I think so, yes. Make sure you get around and see the monuments and everything like that, OK?

Mr. PIPER. Yes.

Senator HARKIN. You do not mind if I keep using you as an example, do you? You do not mind if I keep talking about you, do you?

Mr. PIPER. Yes.

Senator HARKIN. As long as I say good things, right?

Mr. PIPER. Yes, you got it. [Laughter.]

Senator HARKIN. All of you are just great. Thank you so much. You have made our day and made our year and hopefully we will make this bill get through next year.

Thank you all, and now we will call our second panel. [Applause.]

Our second panel is Judith Heumann, World Institute on Disability at Berkeley, CA; Gregory Hlibok—if I mispronounce that, you tell me—Gregory Hlibok from Gallaudet University; Belinda

Mason, Tobinsport, IN; and W Mitchell from Denver, CO. Please come up.

We welcome you all to the hearing, and some of you for coming a long, long distance. I will just go in the order in which I called you. Judith Heumann. Judy is the mother of the disability rights and independent living movement. She has a masters in public health and she's going to discuss the history of the movements and personal examples of discrimination and the need for the bill.

STATEMENTS OF JUDITH HEUMANN, WORLD INSTITUTE ON DISABILITY, BERKELEY, CA; GREGORY HLIBOK, GALLAUDET UNIVERSITY, WASHINGTON, DC; BELINDA MASON, TOBINSPORT, IN; AND W. MITCHELL, DENVER CO

Ms. HEUMANN. Good morning, Senator. I got a little alarmed. I thought you were about to tell me I was a mother. I did not know I had any children.

Senator HARKIN. No, I wondered what that momentary disturbance was. No, the mother of the disability rights and independent living movement.

Ms. HEUMANN. After taking a redeye here, I did not know something had happened.

It is really a privilege to be here with all of you today. My name is Judy Heumann. I am the oldest of three children born to an immigrant family. Like most other Americans, I was born without a disability. When I was 1½ years old, I contracted polio. Becoming disabled changed my family's life and mine forever.

My disability has made me a target for arbitrary and capricious prejudices from any person with whom I come into contact. Over the years, experience has taught us that we must be constantly aware of people's attempts to discriminate against us. We must be prepared at every moment to fight this discrimination.

The average American is not, nor should they have to be, prepared to fight every day of their life for basic civil rights. All too many incidents of discrimination have gone by undefended because of lack of protection under the law.

In the past, disability has been a cause for shame. This forced acceptance of second-class citizenship has stripped us as disabled people of pride and dignity. This is not the way we, as Americans, should have to live our lives.

When I was 5 my mother proudly pushed my wheelchair to our local public school, where I was promptly refused admission because the principal ruled that I was "a fire hazard." I was forced to go onto home instruction, receiving 1 hour of education twice a week for 3½ years. Was this the America of my parents' dreams?

My entrance into mainstream society was blocked by discrimination and segregation. Segregation was not only on an institutional level, but also acted as an obstruction to social integration. As a teenager, I could not travel with my friends on the bus because it was not accessible. At my graduation from high school, the principal attempted to prevent me from accepting an award in a ceremony on stage simply because I was in a wheelchair.

When I was 19, the house mother of my college dormitory refused me admission into the dorm because I was in a wheelchair

and needed assistance. When I was 21 years old, I was denied an elementary school teaching credential because of "paralysis of both lower extremities sequelae of poliomolitis." At the time I did not know what sequelae meant. I went to the dictionary and looked it up and found out that it was because of. So it was obviously because of my disability that I was discriminated against.

At the age of 25, I was told to leave a plane on my return trip to my job here in the U.S. Senate because I was flying without an attendant. In 1981, an attempt was made to forceably remove me and another disabled friend from an auction house because we were "disgusting to look at." In 1983, a manager at a movie theater attempted to keep my disabled friend and myself out of his theater because we could not transfer out of our wheelchairs.

These are only a few examples of discrimination I have faced in my 40-year life. I successfully fought all of these attempted actions of discrimination through immediate aggressive confrontation or litigation. But this stigma scars for life. Many disabled persons experience discrimination of the same magnitude but not every one of us possesses the intestinal fortitude and has the support of family and friends required to face up to these daily societal barriers.

Sadly, these are not isolated examples true only in the past tense. This is an ongoing social phenomenon which haunts our lives at every minute.

I have been told throughout my life to be understanding of these people's actions. "They do not know any better." Neither I nor any one of the 42 million other people with disabilities can wait for the 200 million nondisabled Americans to become educated to the fact that disability does not negate our entitlement to the same constitutional rights as they have.

Just as other civil rights legislation has made previously sanctioned discrimination illegal, so too will the passage of the Americans With Disabilities Act of 1988 outlaw protectivist, paternalistic, ignorant discrimination against all persons with disabilities.

We, as disabled persons, are here today to ensure for the class of disabled Americans the ordinary daily life that non-disabled Americans too often take for granted: the right to ride a bus or a train; the right to any job for which we are qualified; the right to enter any theater, restaurant or public accommodation; the right to purchase a home or rent an apartment; the right to appropriate communication.

Whether you have HIV infection, cancer, heart disease, back problems, epilepsy, diabetes, polio, muscular dystrophy, cerebral palsy, multiple sclerosis, are deaf or blind, discrimination affects all of us the same. Simply put, we are here today to say that people in our society have been raised with prejudicial attitudes that have resulted in extreme discrimination against the 42 million persons with disabilities in the United States.

Discrimination is intolerable. The U.S. Congress is to be commended for its introduction of the Americans With Disabilities Act. The passage of this monumental legislation will make it clear that our Government will not longer allow the largest minority group in the United States to be denied equal opportunity.

You have all heard our testimony today. But you have also been aware of these stories for many years. As elected Representatives, you must act without delay to end these reprehensible acts of discrimination. To do any less is immoral. [Applause.]

Senator HARKIN. Belinda Mason from Tobinsport, IN. Welcome, Belinda, and please proceed.

Ms. MASON. That is Tobinsport, IN.

Senator HARKIN. What is it?

Ms. MASON. Tobinsport. The 75 citizens of Tobinsport would be awful disappointed if word got out in the U.S. Senate that they were in Tobinsport.

Senator HARKIN. We will correct the record, be assured. Tobinsport lives on.

Ms. MASON. Thank you. I thank you all for having me today and I hope you all are listening good and taking note of all this, because we represent a part of society that is unfortunately often invisible, particularly the disability that I am speaking out, HIV infection is invisible and a hidden disability.

I am just going to read from prepared stuff because I am recovering from a stroke and my brain will not let me remember anything for long enough to really spit it out well unless it is written down and I can read it.

My name is Belinda Mason and I live in Tobinsport, IN. I am 30 years old and I work as a free-lance writer. My husband, who is a college instructor, and I have two small children, a daughter who is 5 and a son almost 2.

Until early last year, my family and I had an average life near one of America's thousands of average small country towns. We juggled our jobs, our daughter, and our credit card payments. Our pleasures were simple and common, a walk in the woods, a new song on the radio, or a cookout with other young families.

But then my life changed dramatically. While delivering our healthy son, I suffered serious complications, including cardiac arrest and a stroke. Because of massive hemorrhaging, I received numerous transfusions of blood products. One unit was later found HIV positive and in March 1987, my own blood first tested positive for antibodies to the HIV virus, the virus that causes AIDS.

I also maintained residual damage from my stroke in the form of partial paralysis on my left side, and a tendency to be stupid when I am tired. That is a joke. [Laughter.] Thank you.

With that diagnosis, I became a person with a "hidden disability," a disability just like epilepsy and diabetes and tens of other disabilities. And just like people with those other hidden disabilities, I became subject to irrational and unjustified discrimination.

The average life I once enjoyed has vanished. And since I have been living with HIV, I have learned a terrible truth about America, that it is not a good place to be different or to be ill, in spite of what we teach in government class.

Shortly before the news of my HIV infection became public, but long after the rumor mill had assured that everyone in town already knew about it, I took my girl to the local public pool. I remember the day very well because we had something to celebrate. I had learned that I was sick enough to qualify for AZT, a drug that

has been found to prolong the lives of people with HIV infection. It was our first breath of hope.

I was still recovering from the stroke, but I could drive again. I could not swim yet, but I slid into the children's pool for a couple of hours and watched my daughter play. I remember thinking that maybe I would live, and that maybe my life would settle back to normal.

I was recognized by most of the adults in the town because I had worked as a reporter and was therefore visible in a place where everyone knew everybody else anyway. This was the other adults at the pool. Later I learned that the town closed the pool for a week. The official story was that a cigarette butt had been found in the filter. I have always thought that it was because I was in the water for a few hours, though, just watching my daughter swim.

There are other incidents like this that I have submitted in my written testimony.

A woman in another part of Kentucky had managed a school cafeteria for a number of years. Her adult son, who was living in California, became ill with AIDS. The woman went to California to bring her son home, so she could care for him. But when she returned, she was abruptly fired from her job.

Apparently, even the perception that you are associated somehow with HIV, whether or not you have it, is grounds for ill treatment. This has to change. We need a law that will protect all people, even those perceived to be infected simply because they are helping those who are ill.

A man passing through a central Kentucky town was stopped for drunk driving. After he told the arresting officers that he had AIDS, the man's car was driven to a parking lot of the jail. Instead of putting the man in jail, the officers locked him inside his car to spend the night. The car was eventually surrounded by sightseers, staring and pointing at the man.

As a board member of the National Association of People with AIDS, I know these and many other stories.

When we look in the mirror that AIDS and HIV holds up to our society, we can see how scared we are of each other, of death and even of life. We can see how little tolerance, let alone compassion, that we often show.

HIV disease is blind to race, age, gender, and sexual orientation. It no longer affects other people. Beyond risk groups, immune deficiency is a disease of individuals, our friends, our sisters, our lovers, and our children. People who are just like us because they are us. And because HIV affects us all, it makes no difference how one gets HIV. The fact is that the discrimination is the same and the protections must be the same.

Living with HIV is particularly stressful for people in America's small towns and rural communities. Until we can be counted on to demonstrate fair and equitable treatment, legislation like this is essential.

There are some things that legislation, by its nature, cannot and will not do. For example, this bill probably will not change anything for Stella McKee, a Kentucky woman whose husband David, a hemophiliac, died just when we were learning about what AIDS

was all about. Stella carried home many bowls of untouched food from church potluck dinners.

And this bill probably would not have helped me when my next door neighbor in Indiana, a registered nurse, carried a petition to every neighbor on the block, demanding that my family and I move. You cannot legislate good manners. But you can legislate recourse for some forms of discrimination. By legislating that protection, perhaps you may also help promote reason and foster more decent treatment. The truth is that sometimes legislation precedes and enhances humanity.

I thank you for having me here today and I urge you to pass the Americans with Disabilities Act as quickly as possible. It will make a real and incredible difference in the lives of millions of people, and just some of those are the ones you see today. Thank you. [Applause.]

Senator HARKIN. Greg Hlibok, a student leader from Gallaudet University, welcome to the subcommittee and please proceed.

Mr. HLIBOK. Thank you very much for giving me the opportunity to testify here today. As she just said, people who have HIV are often invisible because you cannot tell by their race or their appearance. It applies to deaf people as well. You cannot tell if a person is deaf unless you see them signing.

My name is Greg Hlibok. I am president of the student body government at Gallaudet University. Last March's victory in getting a deaf president for Gallaudet sent a message to the world. The focus was on what deaf people can do, and not what they cannot do.

As Dr. King Jordan says, "deaf people can do everything, except hear." How can we prove ourselves that we are capable if we are not given equal opportunities. It is society itself that creates the barriers by not giving us these opportunities.

Very often discrimination appears on a daily basis in our lives. We face that all the time, every day. We have many experiences in being turned down for jobs, denied promotions. For example, my own deaf brother had to hire and pay for an interpreter himself so he could interview for a job.

I have been denied medical treatment because doctors misunderstood us and could not communicate with us. They refuse to hire a qualified interpreter. We have tried contacting police stations very often, but often they do not know how to use TTYs, or they do not have it in our stations.

I remember when I was young and I was going home, and I did not have any money with me. I was going home from school. I tried to contact my parents through public service, but there was no way to do that, no relay service. There were no TTYs around, so I had to walk the 3 miles in the snow to get home. Good thing I did not get pneumonia. Also, in San Diego, CA, there is a deaf woman there who died of a heart attack because her husband tried to reach the police through 911 but could not get through.

We have waited for 124 years to get a deaf president at Gallaudet, but we were still told that we were not ready. Hearing people told us that we were not ready and were unable to communicate and work through Congress and work with the hearing world. In the past we felt that there was nothing that we could do, that we

had to accept this fate, and that those were just false excuses and discrimination. We put up with this for a very long time.

Last March showed that our tolerance and patience has run out. I said last March that we wanted a deaf president and we got one. President King's appointment shows that deaf people are capable of holding a responsible job and leading us. He has already proven his success in the past six months.

Now we want our civil rights. The Americans with Disabilities Act would give us the legal tools to fight discrimination. Legal rights women and minorities have already been brought to bear, and now it is time to remove communication barriers and provide reasonable accommodation.

For example, captions, TTYs, qualified interpreters, note takers, and visual aids, and these type of things would reduce the communication barriers that we face. It is not simply just accommodations, but we would like to participate equally and to be effective in society, not to be ignored.

We do not want sympathy, we want support. Because we can help ourselves if things are accessible for us. All we ask for is that you let us guide our own destinies. We urge that communication barriers be identified and the kinds of situations be specified. For example, there are people who have many different disabilities all over the world, and they are fighting against discrimination of all kinds. We can no longer wait. Civil rights must happen now.

[The prepared statement of Mr. Hlibok follows:]

STATEMENT OF GREG HLIBOK, PRESIDENT OF THE STUDENT BODY GOVERNMENT AT GALLAUDET UNIVERSITY, BEFORE THE SENATE SUBCOMMITTEE ON THE HANDICAPPED ON THE AMERICANS WITH DISABILITIES ACT OF 1988

My name is Greg Hlibok and I am President of the Student Body Government at Gallaudet University. Our victory at Gallaudet last March resulting in the appointment of our first deaf president sent the world a message. Focus on what deaf people can do - not what we can't do. As Dr. King Jordan said "Deaf People Can Do Anything...Except Hear". How can we prove ourselves that we are capable if we are not being given an equal opportunity. Its society that has created barriers.

Many of us confront discrimination every day. We have experienced the disappointment of being turned down for a job or promotion because we were told the communication barriers were too great. My own deaf brother was told he had to pay for his own interpreter on his job. We have been denied medical treatment at hospitals because the staff could not understand us and refused to provide qualified interpreters. We have tried to call the police for help using our telecommunications devices for the deaf, but the police hang up on us, because they had no TDDs. I remember when I was fifteen I left school without money to take the bus home. I had no way to call my parents or the police. I had to walk the 3 miles home in the snow. In one case in San Diego, a deaf woman died of a heart attack because the police did not respond when her husband called 911. We have waited for 124 years to have a deaf President chosen at Gallaudet. But we were told we were not ready, and that we could not work with Congress and the hearing world. In the past we felt there

was nothing we could do but accept these false excuses and discrimination and keep patiently plodding on. But, as we showed vividly last March, our patience has run out. I said last March, "we want a deaf president who can show the world a deaf person can lead a major university. We want one now". And we got it! President King's appointment shows that deaf people are capable of holding responsible jobs and of leadership. King Jordan has shown for 6 months that he is successful.

Now we want our civil rights. The Americans with Disabilities Act will give us the legal tools to fight discrimination, the legal rights woman and minorities already have. This bill would require removal of communication barriers and "reasonable accommodation to assure effective communication." The kinds of accommodations listed in the Act such as captioning, TDDs, qualified interpreters and note takers, and visual aids like flashing alarms would greatly reduce communication barriers. With simple accommodations, we can participate equally. We can be effective. We will not be excluded or ignored. We don't need any pity, we need your support. Because we can help ourselves only if things are accessible for us! I would urge that the Communication Barriers Section identify the kinds of situations where specific accommodations are required. Our example last March has inspired deaf people and all disabled people everywhere to fight against discrimination of any kind. We will no longer wait. We want our civil rights now.

Senator HARKIN. Thank you very much. I am going to take the opportunity to introduce to you first about whom Greg spoke, who has really showed us that there are no barriers that deaf people cannot overcome. The new president of Gallaudet University, Dr. King Jordan. Stand up, will you please. [Applause.]

Thank you very much. Next, W Mitchell from Denver, CO. Mr. Mitchell, welcome to the subcommittee and again, please proceed as you so desire.

Mr. MITCHELL. Thank you very much, Mr. Chairman. Good morning, Congressman. It is a pleasure being in front of you today. I am W Mitchell. I am the former mayor of Crested Butte, CO, a very beautiful town high in the mountains of Colorado. Do not get confused with Mount Crested Butte. That is the town that Bo Calloway owns. No, we are Crested Butte. We have a lot of Democrats in Crested Butte.

It is a little town that is nestled in the mountains of Colorado, about 9,000 feet above sea level. We are kind of at the end of a paved road, surrounded by all these 14,000 foot mountains. One of the things that is often said in Crested Butte is that you cannot get there from here.

It is very tough to get to other places in Colorado. Aspen is just 30 miles across the mountains, and yet it is about a 250 mile drive to get around all those mountains. You cannot get there from here. That's the challenge for millions of disabled Americans today—they can't get there from here.

In 1984, I ran for Congress. I was the Democratic nominee for the Third Congressional District in Colorado and I had to adopt a campaign that said "Oh yes, he can." In a lot of people's minds, a man who has been burned and who is in a wheelchair may not be able to represent them very well.

In fact, one of the charges that was first leveled at me was yes, Mitchell is a nice guy and perhaps speaks well, but what is he going to do to get to vote? How is he going to get to vote for our issues? How is he going to get to the floor of the House of Representatives in time? He will not even make the votes to stand up for our issues.

Well, having been back to Washington a number of times, I explained to those good people that most freshmen Congressmen wind up in the Cannon House Office Building. Between the Cannon House Office Building and the House of Representatives is a tunnel. The tunnel is mostly downhill going toward the House. I explained to them that the only Member of Congress that was going to beat me to vote for their interests was one on a skateboard. [Laughter.]

I did not get the most votes that year, my opponent did, a very worthy fellow. Fortunately, he was retired in the next election and now we have a good Democrat back there again.

Senator HARKIN. This is a nonpartisan hearing.

Mr. MITCHELL. Very nonpartisan, Senator. And if Senator Weicker and some of the other Republicans were still here, I would be singing a different tune, you can be sure of it.

I talk today to groups all over the country. I speak about the fact that it is not what happens to you, it is what you do in life. It is not the circumstances of birth or the accidents or injuries or ill-

nesses that we contract in life, it is what we do with the equipment that is given us, with the opportunities that are given us.

But unfortunately, I am one of the lucky ones. Fortunately for me, and fortunately for so many others, I had role models when I was growing up, of other people in wheelchairs. I knew you could become successful and be in a wheelchair. I had education and training before I was burned in 1971 and, as a result of an insurance settlement, was able to start a very successful business. So that when I was paralyzed, in 1975, I had wealth and I had income and I had opportunities already available to me.

But what about all of those who were not blessed with the good fortune that I have had in my life? What happens to all of those who do not have the luxury of a vehicle or an airplane or a business or means of support? What happens to those who, like the young man in Phoenix, AZ, who I visited recently, who was paralyzed on the day of his graduation from high school. But having no insurance and no money, is now in a nursing home instead of a spinal cord injury rehab hospital? What happens to him? Where does he get his education? Where does he get the tools and equipment that he will need to make himself a taxpayer, as we heard earlier, and not a tax receiver for the rest of his life?

What about all of those who, because of the absence of transportation or the absence of communication facilities, cannot even find the employer to present themselves as a qualified candidate for a job? How do they function in our society?

So I come today, Mr. Chairman, to speak for the Americans With Disabilities Act legislation. I cannot speak more eloquently than the witnesses who have proceeded me. All of them are more qualified, more capable of stating the case that all of us need to hear today.

But I would like to say to you that, while the 1970's were very much the age of the me-too-ism, of I've got mine, of all of the conflicts in this country, and while the 1980's are very much an era of great change in our society, with new technologies and new opportunities, the 1990's will be the era of creativity.

We must be creative as a society, creative in taking full use of all of our citizens and their great capabilities. As you and the Congressman have seen today, we have been presented with probably more talent than you were faced with in almost any other hearing that you may preside over. How are we going to use that talent and how are we going to realize that talent?

Mr. Chairman, I will remind you today, in my closing remark, the quote of Albert Schweitzer, who said to all humanity, "We do not live in a world all alone. Our brothers are here, too."

Please carry to your colleagues in the Senate and your colleagues in the House the message that we do not want a handout. We do not want a free ride. We just want to act normal in an amazing situation. Thank you, sir. [Applause.]

[The prepared statement of Mr. Mitchell follows:]

W MITCHELL
Denver, Colorado

Statement to the Senate Subcommittee on the Handicapped, and the House Subcommittee on Select Education

September 27, 1988

It is often said that you can't get there from here. That seems to be the situation facing millions of Americans with disabilities. It isn't that once they get there they can't do the job. Often a lack of adequate training, transportation, communications or other factors -- discrimination being one of them -- perfectly capable and talented, but disabled, people are unable to get to a place from which they can lead productive lives. I count myself as one of the fortunate ones.

While growing up in a suburb of Philadelphia, two of my neighbors were war veterans with disabilities. One was a First World War veteran who had had both his legs amputated; the other was a man who had served in the Korean war and who had become paralyzed. Both had the benefit of training, vehicles, and accessible housing provided to them by their government. Both were able to go on to lead constructive and productive lives, contributing to their communities, and acting as role models to people like me so that later when I became disabled, I knew what could be done; I knew of the potentials and possibilities still open to me from having watched my neighbors all those years; I knew I had not come to a dead end.

When my disabilities occurred, I was able to overcome them through a combination of insurance, previous education and training, family and social support and success in business. Many others are not so lucky. Without the tools that I was equipped with, today I could very well be -- without adequate legislation to guarantee my civil rights--- among those who are tax receivers instead of tax payers.

In 1984 I ran for and won the Democratic nomination for Colorado's third congressional district. My campaign slogan was "Oh yes he can!" It was a statement to those who observed my campaign that my physical limitations were in fact, not a hindrance to my ability to represent the voters were they to send me to Washington. While my opponent received more votes than me that November, it was clear to me that both those voting for me and for my opponent did so not as a statement of my physical disability. In 1984 I asked people not to vote for me (or not to

not vote for me) because of my physical limitations. I told them I was just trying to act normal in an amazing situation.

Today I come before you to ask you to give millions of others like me not a special privilege, but just the same privilege afforded to all Americans, so that all of us here, now, and the millions that will follow can enjoy the same opportunities so many other Americans take for granted every day. But how does someone -- unable to get to school because of a lack of transportation, or to get to work because of inaccessible mass transit, or even find out about a job in the absence of communications equipment -- how does that someone become a participant in the American dream?

So many of the changes we need in order to correct discrimination and barriers to full opportunities are simple but yet often ignored: such as the southwest corner of the Capitol Building plaza where the lack of a curb cut requires someone in a wheelchair to compete with automobiles in the street for access to that building. In other cases it's just a matter of oversight. For instance, the hotel at which I'm staying spent $56 million just two years ago on renovations. Yet there is not one accessible restaurant in the entire hotel.

I'm from Denver, Colorado, which has been doing a great job in making buildings and transportation more accessible. Still, many public officials continue to be insenitive to what life is like when you're unable to get a ride to work because of a broken lift on a bus or because an untrained operator driving that bus doesn't know how to manage the life.

Other times, lost opportunities can be blamed on insufficient funding for appropriate programs. One young man was paralyzed on his graduation day in Phoenix, Arizona this year but because of inadequate insurance he is in a nursing home instead of a spinal cord rehabilitation facility. That false economy may cost taxpayers literally hundreds of thousands of dollars, on just the one man, over the coming years. There are countless other examples that I know Congressman Coelho and the other sponsors of the ADA bill can make you aware of, though a simple trip home to your own states and districts and to visit with disabled persons will set the record straight: we aren't asking for a hand out. We're not even asking for a helping hand. We're just asking for the same opportunities so many Americans without disabilities take for granted and that Americans with disabilities deserve.

Senator HARKIN. That was very eloquent. What the heck, if you cannot get into the House, how about a run for the Senate? We could sure use you here, I will tell you that. Major would like to have you in the House, too.

Again, thank you all. I just have a couple of questions that I want to ask for record purposes, and to further get some thoughts from you on this.

Judith, I just wanted to ask you, do you, and if you do, why do you believe that we can now pass legislation like the ADA act, when previous attempts to expand antidiscrimination protections to cover the private sector have been unsuccessful?

Ms. HEUMANN. I personally think that the Gallaudet experience and the 1977 demonstrations in relationship to 504 and the subsequent Development of Independent Living centers and community-based organizations around the United States, and the real true emergency of a rights movement are going to compel the United States to recognize its responsibility.

It was mentioned by one of the speakers that disability has touched every person's life. I think that what is important for us to recognize is that when we go and work with various organizations who potentially are opponents to this form of legislation, that we need to make them recognize that the discrimination that affects us is also very directly affecting their family and very likely to affect them personally.

I think that all of you have seen that in the last 20 years there has been a monumental change throughout the United States and throughout the world. Disabled people are no longer going to allow ourselves to be discriminated against. The meetings that Justin Dart is holding around the United States, I think are quite compelling. States where you never found a lot of disabled people coming out, speaking on behalf of themselves, are having 200, 300, and 400 people coming out to meetings when there is no accessible transportation, little accessibility in their homes, lack of attendant services. People are still somehow getting out to talk about why we believe it is time for us to have our rights.

That is why I think this bill is going to pass.

Senator HARKIN. Mr. Mitchell, do you have any observations on that question? About the time being right, right now, to pass this one? You have been involved, obviously, in politics, which I was not aware of before. Would you agree with Judith that there has been enough changes, there is enough of a force, enough of a movement out there, that we have made enough minor steps that we can finally take a major step here?

Mr. MITCHELL. Senator, I absolutely agree. Going back to the different eras I talked about, we lived in the 1950's. The 1950's were a very secure era in this country. We really were able to function on a very small part of our potential in the 1950's and still dominate the world. We were number one. We drove American cars. We led the world in every single way and we were secure in every single way, using a very small part of our potential because we had such an overabundance of resources, whether it was natural or human resources, that no one could compete with us anywhere in the world.

Today we are not allowed that luxury. Today we have to use all of America's resources to be great. The resource that exists—and I hear the various numbers of 36 million or 42 million—but a giant portion of our population that is untapped today is the resource that is going to make the difference between America falling into a second position and no longer the leader of the world, and staying number one. We have to use every single ounce of energy that we have.

Again, just look at the people you have seen this morning and they are representative, not spectacularly better than the people that they are speaking for.

Senator HARKIN. Judy, you mentioned Justin Dart. I thought I saw him earlier. Justin Dart, a great leader in this effort, was former Commissioner of the Rehabilitation Services Administration, now chairing a task force.

Ms. HEUMANN. He was here, he had to leave, Mr. Chairman.

Senator HARKIN. He may have had to leave. Tell him we said hello. I just wanted to recognize him here in the audience.

Greg, it goes without saying that not only were a lot of us watching last spring, but I think the world indeed was watching. In fact, I must tell you a story.

I just recently returned from a trip to Europe in August. I had an occasion to meet a small group of deaf individuals who were in Europe at that time. This took place in Portugal. They were with some Portugese who were deaf. It was just happenstance that I ran into them.

The first thing, when they found out who I was and where I was from, the first thing they wanted to talk about was what happened at Gallaudet University. These are people in Europe that knew of this, so it had a world-wide impact.

I just cannot tell you how proud we are of you and the student body, of Dr. Jordan, and what has transpired there.

As you know, my brother is deaf, and so I have, perhaps of all the disabilities, I am more cognizant of that than I am of perhaps others. I am aware of how deaf people have been discriminated against and how, in terms of accommodations and things.

I saw my brother last weekend, and I was staying in a hotel room and I noticed a little red light on. I wondered what that little red light was after I turned the lights out. It was to show that the smoke alarm was activated. But then I got to thinking, if I were deaf and the smoke alarm went off, I would never know it. I mean, I could tell it worked, but I could never know if it ever went off. Just another one of those things in accommodations where a small change would really help.

Let me just ask you a question about the bill, and about reasonable accommodations. How important, to ensuring equal opportunity for deaf people, is the provision of reasonable accommodations which are in the bill, reasonable accommodations? Have you had any experiences that you could relate to us?

Mr. HLIBOK. Sure. I have already given some examples about public services, how they should provide accommodations for deaf people. At Gallaudet University, that is a very good example, because they have all these accommodations for deaf people. For example, flashing lights in the rooms. There is a switch that you

could flash a light. So if a visitor comes, you flash a light from the outside of the door instead of knocking. It is very important for us.

We need accessibility in order to reach out to all of the people right now. There is a wall, a barrier, between us, between the deaf and hearing worlds. We are trying to break down that wall. So far, we have been doing it little by little. Once we completely destroy that wall, that barrier, then I think that we will be able to contribute a lot more.

There are 6,000 deaf Federal employees who contribute to the Federal Government, and there are many more hearing impaired people who could contribute to the private sector, if they are given the opportunity through Government tax revenues. They would be able to use the accommodations and be contributing members.

Senator HARKIN. Thank you. Where are you from?

Mr. HLIBOK. New York City.

Senator HARKIN. Thank you.

Belinda, you face many challenges as a person infected with HIV. How do you perceive the importance of this anti-discrimination legislation?

Ms. MASON. I think, like everybody else has already said, when you have a disability, you just have to overcome so much junk every day of your life, that having extra junk in your way is no good. I do not want to sound like a whiner about it, but it looks like to me that it would not be unreasonable to think that I could go to the cement pond with my daughter and swim and not have to have the whole community penalized for it and have to be made such an example of.

There are so many ways that we separate ourselves from each other, and as Admiral Watkins testified, people living with HIV have to overcome barriers every day that are imposed, that we have no control over, because we cannot make the research move any faster.

It is sad, but it is true, that people in agencies in the private sector, will not always do the right thing just because it is the right thing. Sometimes we have to make them. There is a lot of people in my area of the country living with HIV who face a lot more discriminatory acts than I have. One of those most important ones is jobs. People have lost their jobs.

It is enough that you got this lousy disease. It is like Congressman Coelho said, you come home from an office and you are still the same, but the whole world just shifts around you. You are not like a Kentucky basketball fan anymore. You are not a writer. You are not anything else. You turn into a person with a disease, a person with a disability. Whatever else that there was about you is just ignored.

If there are laws that make people treat you normally, then maybe they will. Maybe they will. I hope they will.

Ms. HEUMANN. Senator, I think that the law at least will give us protection. I do not think the law is going to change people overnight. But the laws, in fact, give us as disabled people the rights, and we then know that we can go out and speak to other disabled people and tell them that if these things happen to them, they should no longer turn around and leave, but there is an action that they can take.

I think actions and filing complaints and lawsuits begin to teach people right from wrong, which they have not learned in the past. I think 504 and 94-142 and many of these other pieces of legislation have begun to teach America that we are more like them. They still might not want to marry us or be with us, but they know that they cannot keep us out any longer. Most importantly, we will not let them. [Applause.]

Mr. OWENS. I think that would be a very good note to end on. I want to thank the witness and all of the witnesses that came before. We learned a great deal from you today. I hope that you understand that, just as Senator Kennedy said, we will pass this bill. It will become law. But I hope you will remember also the caution of Congressman Coelho, that it is not going to be easy.

It will not be easy to pass this bill because there are large numbers of Americans who consider themselves decent and reasonable people who, whenever you mention anything that might raise the cost of housing or public transportation, et cetera, begin to react in a mean-spirited way.

Some of these people are in very high places. In fact, one of our categories of great opposition is local administrators, local elected officials. The mayor of the city of New York sometimes conducts crusades against people with disabilities, when it comes to transportation access and housing access. They do it and appeal to the worst in people.

This we have ahead of us, and I hope you understand that. The bill now has 130 sponsors in the House of Representatives. To pass, a bill requires 218 people to vote yes. We have 130 at a point where the opposition has not yet openly manifested itself.

As we move closer toward passage, or toward the debate on the bill, you will have the people who will come forward with all the statistics to prove that it is far too costly. You will have the disabling amendments, amendments attempting to gut the heart of the bill. All those things are going to happen. We will need a great deal of support. I hope you understand that. There are difficult days ahead of us.

My final question to all of you is what can you do? In the spirit of Gallaudet, in terms of people with disabilities and the concerns of people with disabilities, there is a before Gallaudet and an after Gallaudet. After Gallaudet, the spirit has to keep moving on. The momentum is with us.

I want to congratulate Justin Dart, who is the chairman of a task force that, as I mentioned before, has been around the country He has told me that the spirit of Gallaudet lives on. It is going to escalate as time goes on. We must make sure it escalates. I hope that you will understand.

I have one specific question to the hero of Gallaudet. Gregory Hlibok. What can we expect in terms of leadership from people of your generation, from students? A lot of energy is going to be needed, a lot of continued courage is going to be needed as we push forward for passage of this legislation. Are students prepared to continue to offer leadership? Are there efforts being made to guarantee that people of your generation are fully involved in this effort, understand what the bill is about, and are going forward to help us to mobilize to get its passage?

Mr. HLIBOK. I am sure, yes. One example, that happened last Thursday, was with 200 to 300 students at Gallaudet who took time off of their classes to go to Capitol Hill to pressure the legislature and the Congressmen to pass a bill, H.R. 4992, perhaps you have heard of that yourself?

Mr. OWENS. Yes, I have.

Mr. HLIBOK. I am sure that we are ready, when the time is right.

Mr. OWENS. Thank you very much. I want to again thank all of you and tell you there are difficult days ahead. We will be closely working with you. The energy, the creativity, all that is needed to get passage of this bill, exists among you. That leadership is there and we appreciate it and will be expecting to work in partnership with you. Thank you.

Senator HARKIN. Thank you very much, Congressman Owens. [Applause.]

I see some people want to say something. I am going to have to exercise a little bit of jurisdiction here. I would like to hear from some people just for a few minutes, but I will tell you that we have to cut this off shortly, and I will tell you why.

The buses to Gallaudet for the task force meeting will be departing from Second Street and Constitution at 1 p.m. That is now. Where is Second and Constitution? That is right outside. Traffic will be stopped until the boarding is complete, so I do have to wrap this up. I am sure the bus will be there for a little bit, for those of you, but you are very anxious to say something.

Please identify yourself for the record.

Ms. COOPER. I am Assemblywoman Delores Cooper, Second District Atlantic, representing the State of New Jersey and all of the New Jersey delegation. New Jersey, will you stand up, please?

Senator, on behalf of the New Jersey delegation and all of the professionals, providers, care givers, I have a little gift for you. New Jersey and you, perfect together, because we know that bill is going to pass. Am I right. [Applause.]

Senator HARKIN. Thank you, very much. That is wonderful. And thank you for coming down.

Yes, right here.

Ms. SHAPIRO. I would like to say something. My name is Mary Shapiro. I saw "Mac and Me" and I think you should all see it because it will get more people to understand about people in wheelchairs and understand what they are going through.

Plus, I think the bill should go through because it will make the other people understand about us and all, because I went to a thing in Philadelphia, PA, I got a shirt that says "A real difference." That is a project in every state, about being a nation and about what we have and all that stuff. [Applause.]

Senator HARKIN. Thank you very much.

Two more. This guy over here has been trying to get my attention for a long time.

Mr. ROSENFELD. I am Ed Rosenfeld with the Spinal Cord Injury Network, Metropolitan Washington. I would like to know who is pro and who is on the fence or just not doing anything, and we will get to work on them.

Senator HARKIN. If you did not hear the question, he wanted to know—I did not catch your name.

Mr. ROSENFELD. Ed Rosenfeld.

Senator HARKIN. Ed Rosenfeld from where?

Mr. ROSENFELD. The Spinal Cord Injury Network, Metropolitan Washington.

Senator HARKIN. He wanted to know about who is not on board and who is on the fence and everything. We have a list here. I would hope that it would be made available to you someplace here, maybe going out the door or something, of all the cosponsors of the bill in the House and in the Senate.

We have 25 cosponsors in the Senate and 113 in the House. You can see we are missing 75 in the Senate and about 300 and some in the House. All I can tell you is that we will try to get these lists out to you. You should contact those who are not on the list to have them get on it as a cosponsor.

You may hear, well, it is not going anywhere this year. That is not the point. Get on it this year, you are on it, and we will get it back in the new Congress next year.

But we do have these lists and they are available to you if you just ask Bobby or someone here, we will get you the list of the cosponsors. Who is not on here is who you have to go after.

Senator HARKIN. Yes, the woman in white.

Ms. STOW. I am Florence Stow from Bancroft School in Hanfield, NJ. I think that capabilities should be acknowledged just like we, treated like us, not carried down half ramps, treated just like normal people. They should have respect and should go and live where they want to, and do what we do.

They should have a great deal of respect. Thank you. [Applause.]

Senator HARKIN. Thank you all very much for your eloquence, and for coming. Let me just say this.

This bill is not going anywhere this year. The Congress, the 100th Congress is about to adjourn. But we enter into the 101st Congress next year and the bill will be reintroduced right away.

We have a long road to go. I am not going to sit here or stand here and kid you that somehow this thing is going to get through right away. There are roadblocks and a lot of problems out there.

So what it is going to take is it is going to take persistence. A lot of persistence on my part, a lot of persistence on your part. You are the ones who can make this bill happen. You have to connect up with your friends, your families, the different agencies, organizations that you belong to, and you have got to make this your top priority.

It is going to be a tough battle. I am convinced we can do it. The history of the United States has been a constant evolution of opening more doors, of breaking down barriers, of extending basic human rights to more and more people. Sometimes we do not always live up to those words that we have in the Declaration of Independence and in our Bill of Rights. But we constantly try to live up to them. We said that all men, and I am sure they meant all women, too, if they were here today, were created equal.

And yet, for almost 100 years after, we had slavery. We did not even get the Civil Rights Act until 1964. Women did not have the right to vote until what, 1920, was it not?

But it has been a constant progress towards expanding our concept of basic human rights. But with each one of those hurdles we

had to cross, it took a lot of effort, a lot of time. I am hopeful it will not take that time for this bill. We have laid the groundwork. We have made the initial steps. Now we just need to take that final step of breaking down the final barrier in our country of discrimination.

I guess I am reminded that when I think about how tough it is going to be, and how much work it is going to take, I am reminded of Rosa Parks who got off that bus in Alabama and said she was not going to ride in the back of the bus anymore. She led the bus boycott as some of you remember, at least those of you who are as old as I am. I do not know how long that bus boycott went on, but they all walked to work. They walked to their places of employment and they walked home, some of them 3, 4, 5 miles a day, rather than take the buses.

After it was all over with, they broke the back of the bus company and were entitled to sit anywhere they wanted to on the bus. When it was all over with, someone asked Rosa Parks how she felt. She said well, "it has been a long tough battle, my feets are tired but my soul is at rest."

Let us work hard so that when we finally win this battle, we can all say together, and paraphrase Rosa Parks, our bodies are tired, but our soul is at rest.

Thank you. [Applause.]

[Additional material supplied for the record follows:]

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BEFORE THE

JOINT HEARING

SENATE SUBCOMMITTEE ON THE HANDICAPPED

HOUSE OF REPRESENTATIVES SUBCOMMITTEE ON SELECT EDUCATION

TESTIMONY OF THE ORGANIZATION FOR USE OF THE TELEPHONE (OUT)

ON SENATE BILL 2345 AND HOUSE BILL 4498

On behalf of The Organization for Use of the Telephone (OUT), I express our appreciation for the opportunity to testify on this landmark legislation. My name is David Saks. I serve as Director of OUT.

OUT is an all-volunteer non-profit national advocacy organization working on behalf of people with impaired hearing. We have focused our efforts primarily on improving telephone reception with hearing aids. Since our members have various degrees of hearing loss, we have a direct interest in the above referenced Joint Hearing. We will confine our testimony to the provisions of S. 2345 and H.R. 4498 which deal with hearing and communication.

People whose hearing impairments are to varying degrees compensated for by the use of hearing aids are the victims of discrimination in many aspects of their lives. Of the issues being addressed by this legislation, discrimination in places of public accommodation and employment are particularly critical to them. Hospital patients who find themselves in rooms with unusable telephones because the phones are not hearing aid-compatible (HAC)--or, depending on severity of hearing loss, not equipped with amplifiers or telecommunications devices for the deaf (TDD). Hotel and motel guests who, although paying for rooms with telephone service, find the same discriminatory lack of usable means of communication. Picture the hapless restaurant patron or airport customer who, upon being paged, is confronted with an unusable telephone while non-impaired passengers all around him enjoy convenient telephone communication.

Since we are especially concerned with the removal of these barriers to telephone communication, we urge the subcommittees to make more specific the provisions which bear on the use of voice telephones. Neither the Telecommunications for the Disabled Act of 1982 (Disabled Act) nor the Hearing Aid Compatibility Act of 1988 (HAC Act) remove pre-existing communication barriers, except for emergency phones and coin-operated payphones. There are an estimated 50,000,000 voice telephones in use in the United States which are not HAC, thus unusable with telecoil-equipped hearing aids. These are not touched by the two laws cited above. (See attachment A)

Many of these non-HAC phones are necessarily in places of

public accommodation. We hope and believe that it is the committees' intent to remove as many of these discriminatory barriers as are within their reach. To enhance chances of this coming about, we make the following recommendations:

1. At Section 8(h)(3)(A) TYPES OF REQUIREMENTS--add "hearing aid-compatible telephones." This will assure that places of public accomodation, transportation terminals and facilities, employers and others will provide usable voice telephones to patrons, travelers and employees, thereby rectifying present serious discrimination.

2. At Section 8(h)(3)(C)--Please make stronger the language requiring assistive listening systems, particularly induction loop amplification (ILA). People who need and use telecoil-equipped hearing aids in order to hear in hearing rooms and other facilities where public business is conducted and decided upon, conference rooms, auditoria, theaters, houses of worship, etc. are denied access to these places by the absence of assistive listening systems. ILA is the least expensive of the more desirable systems and the only system which can be used without an external receiver. The listener merely flips the hearing aid switch from M (microphone) to T (telephone) and receives a clear, sharp signal. External ILA receivers are available for people who do not have telecoil-equipped aids. (See attachment B)

3. At Section 8(h)(3)(E)--delete "handsets" at end of paragraph. Amplifiers no longer are confined to handsets: one piece phones have built-in amplifiers, public payphones have case-mounted amplifiers; many phones still use amplifier handsets. The use of "telephone handsets" will limit the applicability of the provision. (See attachment C)

4. We urge you to consider some such word as "effective" or "required" or "necessary" in place of "reasonable" when used in the phrase "reasonable accommodation." "Reasonable" gives to anti-consumer regulatory agencies broad leeway for interpretation. In some cases, you will find your actual intent thwarted by convoluted interpretation which barely stays within the letter of the law. The legislation needs a more specific and stronger word than "reasonable."

In summary, we urge you to make more specific, at least as

specific as other requirements, the provisions designed to eliminate communication barriers which daily face people who use voice telephones with hearing aids.

Respectfully submitted.

Organization for Use of
the Telephone, Inc.

David Saks

David Saks, Director

September 27, 1988

(Note: In the interest of economy, appendix material accompanying this statement was retained in the files of the committee.)

Senator HARKIN. The hearing will be adjourned. We will see you early next year, when we really start moving this.

[Whereupon, at 1:06 p.m., the subcommittee hearing was adjourned.]Folios 174 to 176 Insert here

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